GUIDE TO THE INCOME TAX

F. B. LEEMING

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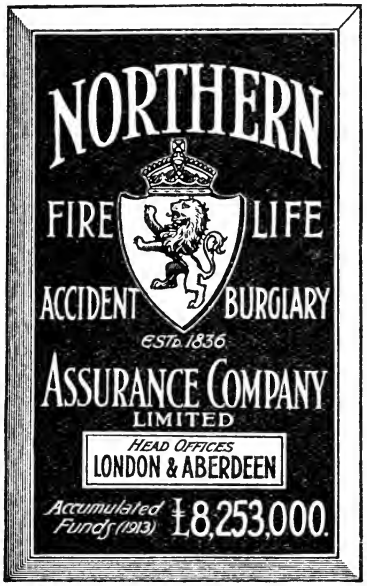

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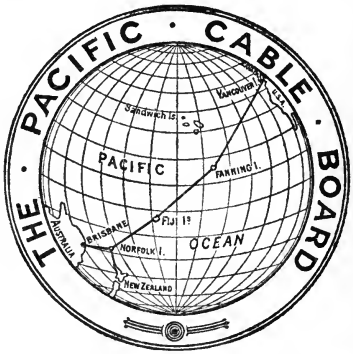

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GUIDE TO THE INCOME-TAX

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SHOWING

HOW TO SECURE PROTECTION AGAINST ARBITRARY ASSESSMENT

HOW TO OBTAIN READJUSTMENT WHEN SUCH ASSESSMENT IS MADE

IN WHAT CIRCUMSTANCES TAX DEDUCTED AT SOURCE CAN BE RECOVERED

UNDER WHAT CONDITIONS EXCESS PAID ONE YEAR WILL BE REFUNDED THE NEXT

AND MANY OTHER POINTS OF INTEREST TO THE PUBLIC GENERALLY

BY

F. B. LEEMING

MEMBER OF THE CENTRAL ASSOCIATION OF ACCOUNTANTS

AUTHOR OF "SIMPLE LEDGER FOR THE TRADESMAN," 1/- NET

FOURTH EDITION, REVISED

LONDON

EFFINGHAM WILSON

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FOREWORD.

THE fact of there having been two Budgets in 1914 and two sets of alterations in the rates of the Tax, and consequently two Finance Acts, the liability to make an error on some point or other becomes more probable than if there had been one Act and one set of alterations only.

It is therefore highly important to every taxpayer to look closely into the matter, and assure himself that he is not being charged more than his right liability.

The principal variations of, and additions to, the Finance Act of 1910 (which was the last previous Act) are touched upon in the following Preface to the Work, and are dealt with in detail at the proper place in the pages of the book, according to the Index.

One feature of immediate interest to the public is that, in consideration of loss in trade through the War, the account for period of trading since, can be brought into average with the two preceding years and assessment to

1914-1915 Tax will be modified accordingly, so that the trader will have less to pay than the assessment fixed last autumn—provided his account proves the falling off in business is due to the War, and he lodges that account by the end of February. It is, therefore, very important to make up the account say to the middle of February which will give the claimant six months' loss to be set off against result of former period, and the three years' average will be struck to the date of account lodged. Further this applies also to reduced salary and commission arising from the same cause.

The foregoing is intended for the relief of those who would feel the pinch of payment of the Tax on last October's assessment pecuniarily; but it will probably be to the advantage of others to pay the Tax so assessed as usual, and bring into average for next assessment the account for the whole year to get the full benefit of reduced Tax upon the total falling off of result of trading through the War.

PREFACE.

"Render unto Caesar that which is Caesar's"—but no more.

At either end of Cheapside in this great London of ours, there is a monument to the memory of two of the greatest statesmen of the last century, and yet so curiously obsessed is the average Londoner in his own concerns that he rarely crosses the road to read the inscription on the one, and does not even know of the other.

The first is the erect figure of Sir Robert Peel, near St. Paul's Cathedral, a notable statue in stone, and the second the reclining form of Mr. William Pitt in the National Debt Office at the bottom of Old Jewry, which is probably the finest seated statue in bronze to be found the world over.

The splendid qualities and achievements of these two remarkably able Statesmen are sufficiently described and eulogized in the glowing pages of Macaulay.

The point of reference to them here is that both were Chancellors of the Exchequer, and both were Authors of an Income-tax Act, that of Sir Robert Peel being based upon a complicated system of varying poundage, which grows more and more perplexing to the public mind with the alterations of each Act; and that of Mr. Pitt founded upon the good

sound old principle of percentage, which is the basis of all our commercial and financial dealings.

In the last century our country was confronted with the same peril from invasion by a foreign power, as that which threatens us now. Mr. Pitt rose to the emergency then, with the whole nation behind him as one man, and declared an Income-tax (as detailed in the following history of the Tax) of one-tenth part of Incomes above £200, but the year after Waterloo that tax, having well served its purpose as a War tax, was repealed.

In 1842 came Sir Robert Peel's Act, based upon so many pence in the £ (as also detailed in the History, showing the fluctuation since his time).

There are many people who think Mr. Pitt's was the right principle for taxation, and that Sir Robert Peel's basis of pence in the £ is only suitable to the division of Bankrupt Estates when the Officials and Lawyers and Accountants have done with them; but whatever view we may take theoretically we are up against the fact that Sir Robert Peel's system is still with us, and likely to remain, with all its ramifications and variations, from which arise all sorts of problems that require more and more the skill and patience of an expert to solve.

The increases and alterations in the Finance Act, 1914, are shown in a table following, with the further additions contained in the War Budget, which is described "The Finance Act, 1914, Session 2".

In a former edition of this work, observations were made upon the objection to pay this tax, and a tendency to evade it, if possible. Happily, that sort

of aversion has disappeared in the face of national danger, and although the tax is doubled, the people are as willing to pay their share as they were in Mr. Pitt's time, over a century ago.

Still, no one need pay *more* than his share, and this many do, because they don't take the trouble to ascertain their right amount for Assessment to the Tax, by employing the assistance of those who are expert in the preparation of Accounts, in the knowledge of the regulations, and in acquaintance with official ways. These three elements are necessary for the expert to obtain the utmost advantage to which his principal is entitled, and the result is usually well worth the cost.

The tax-paying community is broadly divided into two classes, those who don't pay what they ought, and those who pay more than they need. The amount lost to the Revenue through the former is incalculable (at the end of Preface is a notable example of this), but the amount gained by the Revenue through the neglect, indifference, or ignorance in this special matter, on the part of the tax-payer, regarding his rights and remedies, is not quite beyond conjecture if a few typical cases are considered. There are numerous examples cited in the book itself, but for the purpose of this Preface, let one be taken as a general illustration.

This was that of a jeweller, watchmaker, silversmith, goldsmith, etc., in a large provincial town. For three years he had paid on £1200, knowing he hadn't earned it, but fearing to let his business be known in the town (a common thing with country

people). Meanwhile the Surveyor had every year demanded a proper trading account for three years, and, not getting it, he this year arbitrarily increased the Assessment to £1600 (which Surveyors have the power to do in every case, to compel the production of accounts as prescribed in the various Acts). Then the tradesman wisely saw that this operation was capable of indefinite extension, and to get over the local question, sent for an expert from London, who went down, got out three years' certified accounts, and found the average earned profit was £850. The immediate result of reference to the Commissioners was that the threatened increase of £400 was averted, and a decrease of £350 effected, so he paid on whole Income £47 instead of £93.

It will be observed the point of this case is that for want of doing at first, what he had to do at last, he had for three years paid the tax on £350 more than he earned, and the Revenue got the benefit.

Take this as occurring with two or three tradesmen in every large town in the country, and the many shop centres in London, and the reader will have a fair idea what the gain to the Revenue may be every year.

A probably much larger source of addition to the Revenue to which the Crown is not entitled, is that which arises from people not claiming the repayment of tax deducted at the source by bankers in respect of floating loans on overdraft accounts, that many business people need as capital; or tax deducted from dividends on shares—or tax in respect of mortgage interest, or property tax deducted by tenants.

In the case of a doctor's case who had retired from practice, he had an income of £600 from Mortgage interest, property rents, and stock and share dividends. His attention was drawn to the matter by this book, and he got back the Tax paid to the extent of his abatement of £120 on whole income at 1s., 1s. 2d., and 1s. 2d.—three years' (about £20).

By the Act passed in the second Session of Parliament held in 1914 and technically called "The Finance Act, 1914, Session 2," the rates fixed by the first Act were doubled, but are only payable for one-third of the year, to correspond with the period of War—during this year to the extent of 5d. increase, making the tax payable 1s. 8d., for the whole year 6 April, 1914 to 5 April, 1915. In other words the doubling operation applies only to one-third of this financial year.

No allusion is made in the War Budget (on which the Finance Act, 1914, Session 2, is founded) to any difference between earned and unearned income, but the whole tax must have one-third added for this year. The same remark applies to the various super-tax rates.

It should be observed, however, that there is a further provision of the Finance Act, 1914, Session 2, to accord relief to persons who have suffered diminution of profits in trade, including reduced salaries, or any other source of income, caused by or in consequence of the War; but the application for such relief must be made within eight weeks of 1 January, 1915, and must be substantiated by accounts showing the diminution, with proof of the fact that it arose

through the War affecting trade, or value of all classes of securities.

With regard to the latter there is a special memorandum issued by the Board of Inland Revenue relating to the payment of dividends from public funds, foreign or colonial companies, foreign or colonial Government securities, interest and annuities from municipal corporations and other interest and annuities, by which certain deductions may be made from payments before 5 December, 1914, to adjust the income from these sources so that the tax-payer gets the benefit he is entitled to for the third of the year referred to above clause and payments made after 6 December, 1914, to 5 April, 1915, on ground rents, interest or annuities arising from property, and dividends on public Companies' holdings in the United Kingdom.

In concluding these introductory observations, it is desirable to point out to the reader of the book, that the increase in the general rate first to 1s. 3d. and next to 1s. 8d., dates back to 6 April, 1914. There is a great deal of perplexity in the public mind on this point, and perhaps one short illustration here will be appropriate.

A banker who is a Trustee paid the quarterly instalment of annuity £10 on 24 December 1914, and deducted three quarters' tax at 1s. 8d. less two quarters at 1s. 3d. so that he only took off £1 5s. (How he got five quarters in the calculation is incomprehensible, but a fact.)

The confusion in most cases arises from the people not understanding the plain fact that if 1s. 8d. is the tax for the whole year, and 1s. 3d. has already been

charged for six months, the other six months must be charged at 2s. 1d. to obtain the equilibrum.

That much is clear in regard to the period of income which corresponds with the financial year, but is not clear when the dates vary. Take for instance a case of mortgage interest, payable half-yearly in June and in December. Up to the end of March the tax was at 1s. 2d. for three months, so, as the rate of 1s. 8d. starts from April, 1914, the person concerned has to make up his 1s. 8d. by arrangement with the person or company he has the business with.

The Revenue Authorities must have discovered there would be a muddle, because in their memorandum of directions they say any difference is to be settled between the payer and the payee.

Finally with reference to the sources of loss to the Revenue the following is the notable example mentioned, and it is almost incomprehensible that any government should pass a law for the benefit of a certain class and that this class by going beyond the purpose of the benefit should be able by combination to deprive the Revenue of their quota of income-tax; and yet such is the fact. The reader shall judge. Co-operative societies have hitherto enjoyed immunity from income-tax by virtue of being Friendly, Industrial, or Provident Societies entitled to exemption under schedule D. But many of these bodies form themselves into Co-operative Associations for the benefit of their members and make profits on their business. So they become traders amenable to the income-tax, or should be, but are not.

This is not a little matter but a vast one involving

a loss to the Revenue which has been computed at two millions per annum. The societies are spread all over the three kingdoms, and it is nothing less than a public scandal that they should be able to snap their fingers at the Revenue Authorities on the ground that as individuals they are protected from income-tax.

The subject is so important that the main features are emphasised in the chapter on Evasions.

F. B. LEEMING.

7 Staple Inn, London, W.C.
January 1915.

Table of Increases and Alterations in the Finance Act, 1914, Session 1 and Session 2.

In the previous Act of 1910 earned income was taxed at 9d. in the £ and unearned income at 1s. 2d. in the £ up to £3000.

By the present Act, 1914, Session 1, the variations are as follows :—

Up to £1000 is	.	.	.	9d.	in the £
Between £1000 and £1500	is			10½d.	,, £
,, £1500	,,	£2000	,,	1s.	,, £
,, £2000	,,	£2500	,,	1s. 2d.	,, £

and after that amount no allowance is made on earned income, but it has to pay at the prescribed general rate of 1s. 3d. in the £, which became by the Act, 1914, Session 2, 1s. 8d. for this year, that being the rate also for all unearned income ; but by Section 4 of that Act a special extra relief is given to small incomes under £500 to this extent :—

Total incomes, i.e. earned and unearned under £300, are taxed at 1s. in the £.

Those between £300 and £500 are taxed at 1s. 2d. in the £, and a still further relief is granted by the increase of allowance for children to £20 instead of £10, with the same provision that the parent's income is under £500.

There is one alteration contained in the Finance Act, 1914, Session 1, which may be of very great importance in specific circumstances, viz., the separate assessment to income-tax of husband and wife which up till now has always been one assessment.

It is involved in a mass of almost unintelligible jargon of legal verbiage, but out of the cloud of words the clear fact emerges that it only means the protection of the husband's separate estate from distraint for the liability of the wife's separate estate to income-tax, and vice versa.

What it is desirable the general public should understand is that this separate assessment of husband and wife does not alter the liability of the husband and wife to the amount of taxation on joint income, which is still, for the purpose of payment of the tax, one income, as it has always been. Thus where the husband's part of income is £500 and the wife's £600, neither can be distrained upon for default in payment by the other, but the income chargeable to the tax is still £1100, although neither is liable to default proceedings in respect of the separate assessment of the other, and, as they say in Yorkshire, "that's all there is to it".

One other feature of interest to the property owner

is that where all the income is from property only, instead of the 1s. 8d. rate incomes under £300 will be 1s. 4d. and those under £500 will be 1s. 6d., provided the owner of the property goes to his District Surveyor of Taxes with the account and vouchers before the end of February; but, as before observed with reference to the falling off of trade results through the War, it will probably be to the advantage of the property owner to make up his return for next year's assessment in the ordinary way, and get the full benefit of whatever abatement he is entitled to on whole income from all sources. That in any case would avoid confusion in his accounts, and keep them within their proper year.

This matter is very important to persons of a limited income, and the reader's attention is specially drawn to the chapter where a case is given showing recovery of property tax for three years.

CONTENTS.

A.

BRIEF HISTORY OF THE TAX.

It is a curious fact that none of the popular sources of information, in dealing with this subject, begin at the beginning.

The origin of a tax on income dates so far back as 1512, when King Henry VIII contemplated a war with France, and for that purpose demanded a special grant.

This was yielded by Parliament allotting $\frac{2}{15}$ths of income from the estates of the commons and $\frac{2}{10}$ths from those of the clergy.

What happened in regard to this impost between the time of bluff King Harry and good King George is very sparsely dealt with by the chroniclers. In those days they didn't compile encyclopædias, but where there is some scant allusion to the tax it is generally in connexion with exceptional expenditure for war. There is, for instance, a record of a tax imposed by Parliament upon "property and incomes" during the great Civil War in 1642. The details in this case are meagre, but it is cited as showing that the popular idea that this tax was always intended as a special source of revenue to furnish the sinews of war is a right idea; and is confirmed by the fact that whenever other wars have occurred it was this particular tax that bore the brunt of the necessary expenditure.

To come down to modern times when what may be called the "permanent" history of the tax began, it was in the financial year 1798-99 that Mr. Pitt founded the tax on income as a source of the nation's revenue especially for the emergency of war. The great struggle with the power of France was then in its initial stage and funds were required to carry it on year by year. Parliament granting the necessity, Mr. Pitt applied the principle of percentage of incomes from all sources, and it is an interesting circumstance that the same schedules of heads of income are contained in his Act as now obtain. Thus :—

A. From property, by which the tenant is bound to deduct and pay the tax out of rent, and the landlord is bound to allow it.

B. From profit arising out of the use of agricultural land.

C. From dividends or interest on public securities at home and abroad.

D. From profit of trade, industry, wages and salaries from employment, interest, and dividends on private investments and other sources of the people's income.

E. From state offices or public companies.

Mr. Pitt, however, recognized in a statesmanlike and practical way the principle of graduation according to means (which we are beginning to resume now), by totally exempting incomes under £60, lightly taxing those up to £200, and charging 10 per cent on all incomes above that amount, and he further made that allowance to children as a special relief to the hard-working classes which was in the "People's Budget" (Finance Act, 1909-10), whilst his equitable idea of exemption of small incomes was recognized by a very wise Conservative Chan-

cellor of the Exchequer, in extension of amount exempt to incomes under £160, which has never been challenged or altered since Sir Stafford Northcote reaffirmed the principle.

From 1799 till the year after Waterloo the tax based on these sound and businesslike principles continued with little variation year by year, when in 1816 it was finally repealed, and in that year it may be of interest to mention that the tax had yielded a revenue of £16,548,986.

From that date the country had a long rest from wars and rumours of wars, and it was not until 1842 that the tax was re-created by Sir Robert Peel, but with these fundamental differences—that he substituted a complicated system of poundage for the simple principle of percentage and made the tax applicable for general purposes of the revenue, instead of to the exigencies of war only. Yet, at ever-recurring intervals, it has by force of circumstances resumed its ancient attribute of a special tax for meeting the expenses of war.

Sir Robert Peel's Act of 1842 made the ordinary rate 7d. in the £ for three years. In 1845 it was continued for a further three years, and the process was repeated in 1848, and then continued for one year only in 1851. Then in 1853 it was continued for seven years, still at the same rate, but in the meanwhile the Crimean War broke out and in 1856 the rate was doubled, and the authorities finding that rate of 14d. insufficient it was made 16d. on all incomes above £150. Then in 1857 it reverted to 7d. and in 1858 it was reduced to 5d. In 1859 it was raised to 7d. on incomes of £100 to £150, and 10d. on incomes above £150. Here again we find the warlike touch, the increase being due to exceptional expenditure necessary

for improving the defences of the country as a precaution against invasion. Then it reverted to 7d. in 1863 and became 6d. in 1864, and 4d. in 1865-67. Then came that most effective and economical expedition ever sent out of the kingdom—the Abyssinian War—which was conducted by an engineer officer (Sir Robert Napier), and fully demonstrated the practical value of scientific methods applied to war. It speaks volumes for the genius of that remarkable leader that a large part of the cost of this expedition was covered by 1d. in the £ increase in the income-tax, which became 5d. for that year and another penny in 1868. Thus 2d. in the £ extra made up with previous grants the total of eleven millions. It will be observed that the increase or decrease by one penny plays an important part. In 1844 that penny yielded Sir Robert Peel £800,000, and the gradual progress of the nation may be gathered from the fact that this little penny in 1898 meant £2,248,000, in 1903, £2,580,000, and in 1910, £2,691,422.

In 1869 the rate was reduced to 5d., in 1870 to 4d., and in 1871 it was made 6d., the 2d. increase providing for cost of abolition of purchase in the army. In 1872 it was reduced to 4d. and 1873 to 3d., until finally in 1874, under the financial genius of Mr. Gladstone, it touched zero at 2d. While the influence of Mr. Gladstone prevailed, the rate was kept at the lowest figure compatible with the exigencies of the time in regard to general purposes, but the ever-recurring period, before referred to, when the war attribute of the tax again asserted itself, came when the enormous expenditure in the South African War compelled Sir Michael Hicks Beach to raise the rate on the income tax first to 1s.,

then to 1s. 2d., and then in 1900 to 1s. 4d.—the same rate as that which followed the Crimean War, but with this difference in the result, that while the latter war was paid for within two years, the South African War debt, for the liquidation of which this rate of 1s. 4d. was inflicted in 1900, is still with us. From that date right up to the present day at 11d. and 1s. and 1s. 2d., we have practically carried that millstone round our necks, and the only relief of a sensible nature has been the re-adjustment of the burden to those who live by their work and business granted by the first Chancellor of the Exchequer under the Liberal Government on their accession to power in 1906 when Mr. Asquith made the concession of a 9d. rate on *earned income*. That was a statesmanlike stroke worthy of his great predecessor, Mr. Gladstone, and although it was also a tactical move of an astute party leader to secure the votes of a vast number of the toiling middle classes, which was largely instrumental in returning his party to power when the House of Lords (in the legitimate exercise of their constitutional functions) referred the Budget for 1909-10 to the people's judgment; still it was a considerate and equitable concession to clerks, warehousemen, commercial travellers and tradesmen whose arduous work in the business of earning their living thoroughly deserved that consideration. Mr. Asquith's successor as Chancellor, Mr. Lloyd George, rightly judged that it was a concession that should not be disturbed, and although in the Finance Act, 1909-10 (passed a year after it was propounded), he increased the rate on other sorts of income to 1s. 2d. in the £, he made that further notable allowance of £10 for children under sixteen years of age on 6th April,

1909, in respect of incomes between £160 and £500 per annum, which was a just measure of relief to the struggling classes. In many cases it has the effect of reducing the charge on hard-earned income to a minimum, and in many others it has secured total exemption. Some illustrations of this are given in these pages, by which its beneficial effect and extent may be clearly seen, especially in the case of the small tradesman who rears a large family under his roof.

The history of the tax brought up to date of published statistics in "Whitaker's Almanack" for 1915 shows the Income-tax is easily the most important source of the nation's revenue now.

For comparison take the period of five years beginning 1909 and ending 1914. The receipts were :—

	In 1908-9.	1913-14.
Customs - - - -	£32,490,000	£35,450,000
Excise - - - - -	35,720,000	35,590,000
Income-tax - - - -	32,380,000	47,249,000

Thus at April, 1914, Income-tax was 15 millions more than Customs, and 12 millions more than Excise.

To get a view of the vast increase in the business of the nation clearly defined as a "silhouette," compare the yield in Sir Robert Peel's time when a penny produced £800,000, and now when it produces £2,500,000, and further note that the Income-tax of 1914 was close on 15 millions more than it was five years ago.

A 1.

The Income Tax, 1913-14.

The Rights of the State, the Powers of the Authorities, and the Remedies of the People.

Whilst the tax was at a reasonable rate most people paid it rather than trouble to inquire into the amount of assessment. Mr. Gladstone used to say the tax should never be more than 6d. in normal times. Now we have it at a war rate come to stay for who knows how long?

The obligation of the Government to provide the millions required for old age pensions, and the necessity of further millions for the armaments and equipments and other expenditure for the War, now renders any answer to that question impossible.

Therefore those people who formerly paid the tax without inquiring whether the amount claimed was right or wrong are now beginning to realize that the matter *is* worth looking into, and the object of this addition to the original preface is to make the facts of the position clear to all who read it.

The need to exact all possible revenue from this source has caused a greater activity and a closer inquisitiveness as to people's means during the last few years than used to be the case under the old régime. To such an extent does this increased vigilance prevail that employers are now required to state in their Return of persons employed not only their salary, but (as for example in the case of salesmen, commercial travellers, etc.) the commission they receive. But although the rate itself is an important factor, the more important question in the case of the ordinary taxpayer is whether the amount of his assess-

ment is right or not, and, if wrong, how to remedy the injustice.

Following the heading of this continuation, we will now deal with the "Rights of the State". The tax-gatherer, like the poor, we have always with us, and it has been so in ages past from time immemorial. In meal or malt, in coin or kind, a portion of a man's earnings has gone in tribute to the lord of the land. It may have been at low or high rate according to the circumstances of the time or country, but the initial fact remains that the king shared in the subject's profits. *This is why taxes paid are not allowed as an expense in computing profit.*

It will be well now to deal with the "Powers of the Authorities". It is generally well known that the penalty for making an untrue Return is £20 and three times the duty on income ascertained to have been made, and the penalty for making no Return at all is £5, but it is not so well known that the power of fixing the assessment is practically illimitable. This has been made clear in numerous cases where a man has made no return for the simple reason that he was never served with the yellow paper demanding it. That has been held to be no excuse over and over again. The authorities viewed it to be the duty of the citizen knowing he was earning a taxable income to have *gone* to the local Assessor and obtained a form of return. One case will be sufficient to show what happens. For seven years the man made no return, for the reason given. Last year, owing to the increased activity referred to, he was served with the paper and found he had to pay for the seven years in arrear on an estimate of income based on that of last

year, or else be fined £5 for each year he had made no return.

This case was also instructive as to the method adopted to get at the income *where no books had been kept*. The Surveyor of Taxes actually fixed the assessment on the amount he considered was required to rent a house and shop, to keep up an establishment for self, wife, and family, and to send the children to school at so much a quarter. A statement of accounts was got out for the last year from such materials as were available, corroborated by payments in and out of bank, which showed that the man had not earned so much, and also got the allowance for six children at £10 per head, and in that way the amount liable was reduced, but if it had not been for this intervention that man would have had to pay the full amount first fixed by the Surveyor, or else had to answer an action in the High Court to recover the estimated duty and penalties for making no return, which would have cost him double or treble that amount.

Another case will further illustrate the arbitrary power of assessment referred to. It was that of a bookmaker who boasted at an hotel that he made £1000 a year at his business, but "he never paid any bally income-tax". Some one who heard informed the local Assessor of this, and no doubt got the £50 reward for an informer, but the astonishment of that bookmaker may be imagined and the language he used may be guessed when that same week he was served with a notice demanding payment of the tax on an assessment of £1000!

The powers of assessment, however, go even farther than that. If a man makes a return, and does not send an account showing how it is arrived at, he is liable to

have his assessment increased without reason given. In fact the authorities are adopting this plan, in the new vigilance mentioned above, as a means of *compelling* people to file accounts. They cannot succeed on appeal against an assessment unless they render accounts or produce books. The authorities are acting on this knowledge, and will continue so to act more and more strenuously, because they know wilful evasion of right liability is widespread in the taxpaying community, and they are determined so to deal with it. This has been proved in a great many cases where the assessment was increased £100 for 1910-11, and another £100 for 1911-12, when the man had to prepare accounts showing the amount charged had not been earned, and got the matter properly adjusted, but by the plan of increased assessment the authorities got their way and extracted accounts which had better have been rendered willingly in the first instance.

With regard to the third part of this addition, viz. "The Remedies of the People," these are so largely treated in the pages of this work in a general sense that perhaps it will sufficiently illustrate what the public can do for themselves to alleviate the burden by a statement of the following particular cases treated in the year 1912-13.

Cases settled with Surveyors.

CASE.	RESULT.
1. A schoolmistress, earning £150, was also owner of the house she lived in. £38 rental value. Husband earned £65. Had paid the Tax for many years on the	A separate assessment obtained for her on the ground that she earned her livelihood by her own industry, independent of husband. She was also entitled to £30 allow-

CASE.	RESULT.
joint income, viz., on £253, less abatement, £160. (Page 38.)	ance. Three children, and that with the abatement of £160, cancelled her liability. The husband's income also exempt from Tax, so they paid nothing.
2. A dairy business was left to the two sons upon condition to allow the mother £4 per week. The trading profit amounted to £208 for the mother and £300 between the sons. The mother also owned the house. (Page 52.)	Separate assessment for the partners made them both exempt, but the mother held to be an annuitant and as she did not "earn" her share, was charged at the 1s. 2d. rate on . . . £208 less abatement . . 160 £48 *plus* value of residence 52 Had to pay on £100
3. Firm of solicitors acting as trustees received for the first time in 1911 Form 51B. Wanted to claim privilege. Were advised they couldn't. In the end made Return which disclosed the fact that a very old man, with an income from property of £1360 per annum, had paid for a great number of years upon the interest of a mortgage of £3900 at 3½ per cent. = £136. In this case question of right of the Crown to arrears for an illimitable number of years arose. A case in which the Commissioners claimed twenty years, but in the end compromised at six years, was quoted to the Surveyor, viz., D51500 "T," 1907—which was also a trustee case. (Page 116.)	After satisfying the Surveyor that the client, an ignorant and infirm old man, had no intent to defraud, and that the solicitors were never consulted by him on his Income-tax matters, a meeting was arranged to discuss the matter in a friendly way, and settlement was effected according to the Commissioners' own decision on the six years' basis. NOTE—It is well to point out here that although by the original act of 1842 the Revenue can only claim three years' arrears of Taxes, that applies only to amounts as to which *there is no question*, but the Commissioners have the power to enforce penalties for *each* year there has been an untrue return—also that they are willing to compromise where no "fraudulent intent".
4. A contractor was assessed for 1911-12 at £2000, because had not rendered accounts of his trading. The Revenue Authorities	The Commissioners very patiently heard the details of the three years' accounts, and were satisfied except as to the value of

CASE.	RESULT.
resort to this method of compelling people to produce accounts. In this case the man drove about his business in an expensive motor car and advertised his properties largely, but the three years' accounts he had to have made up showed he had lost £200 on the period instead of making a profit. (Page 145.)	the houses in hand, but it was successfully urged by the accountant that the man had no interest in them unless they were eventually sold at a profit—that they were all under building agreement and the advances in each case amounted to more than they would fetch in their present unfinished state, and that the question of value should abide the event of realization, and upon that the Commissioners agreed to an assessment on the actual drawings for the year, viz., £6 per week.
5. An architect's business had been dwindling down for the last two years, and this year he had earned no income from his practice, and his whole income arose from property on which Tax had been paid at the source. The accounts for three years showed on average a loss so far as his profession was concerned, and he sought relief from the assessment under Schedule D, charging him the sum of £12. (Page 151.)	The Special Commissioners seeing the applicant was old and infirm very considerately heard the case in the country town where he lived. A copy of the accounts had been sent to them and the books were produced for inspection at hearing. After a cursory examination they were quite satisfied. They discharged the assessment at £12, Schedule D, and further allowed him to recover property tax for one year, £9, so that he saved £21 by the operation.

The following cases are summarized briefly, as those given above sufficiently illustrate the dealings with the officials.

CASE.	RESULT.
6. On the question of "Reserve for doubtful Debts," a firm of solicitors had been writing off a loss in an estate they financed.	Held that although no provision in any act for allowance on this account, yet the practice has been to allow a loss to be spread over a

CASE.	RESULT.
It had been allowed for years by former Surveyors, but was challenged by present Surveyor. (Page 83.)	certain number of years—usually six—and that was followed in this case.
7. On the question of "Bad Debts" in ordinary trading, Surveyors take different views. In the case of a provision dealer he had lost £48 in one debt, and the Surveyor would not allow it in last year's trading. (Page 33.)	Held the Surveyor was right, as although the estate of the debtor was in bankruptcy, the debt might yet be paid or substantial dividend be received, and under the act no debt can be considered "Bad" till it is proved to be so in the result, and the claim must stand over till estate wound up.
8. A traveller had not appealed against an excessive assessment and he had to pay first and recover, after upon confirmation of his income from the employer. (Page 104.)	He had paid on the assessment £11 13s. 4d. Upon production of proof required he got back all but £1 5s. 8d., for which he was liable.
9. A retired printer had an income from Bank Stock and property, but it was under £160 in all, and he was exempt from the Tax, but it had been paid by the Bank and the tenants. (Page 64.)	Application made on Form 40 for three years. Case of claim to recover the Tax on Dividends and Rents proved and allowed, so he got back £12 for three years right off and £4 on the year 1911-12.
10. A doctor, retired from practice, had income from property below £600, was not aware till last year that he was entitled to be paid in cash the abatement on whole income upon proof that his interest and rents, etc., had been sent, less Income-tax, and this had been paid. (Page 153.)	Three years was claimed on Form 40, and every single item had to be vouched before the Authorities would pass the claim. Eventually they were satisfied the Tax due on income had reached the Revenue, and he was paid the amount of the claim for the whole three years' abatement of £120, at 1s., at 1s. 2d., at 1s. 2d. = £20 in all.

B.

EVASIONS.

ONE of the circumstances referred to in one of the foregoing paragraphs which first attracted the attention of the commissioners to the wholesale evasions of right liability was the issue of the report connected with the Budget of 1894 by Sir William Harcourt that there were at that time a large proportion of the class of people whose income averaged £3000 a year who made returns in the aggregate 50 per cent below the real income, with the result of serious loss to the revenue. A parliamentary return obtained by Mr. Bartley, Conservative member for North Islington at this time, of the number of assessments to the tax for the year 1893 shows that there were then 4044 persons whose incomes were £3000 per annum (see Note, p. 20) is readily credible because the result could be reliably got at by definite data in regard to those cases of £3000 a year; but from long experience in dealing with income-tax matters the agent has been increasingly impressed with the idea that there are many times that number of cases, not so easily ascertainable, where the proper liability is evaded on incomes of hundreds instead of thousands; and if ALL paid their due share there would be an increase of proportionate millions in the annual

revenue from this source and the rate would be correspondingly less. This view he expressed in letters to two Chancellors of Exchequer (Mr. Austen Chamberlain and Mr. Lloyd George) and cited in support of it five typical cases (withholding the names) in which to his knowledge and against his advice returns were made at considerably less than the amount properly liable.

It is this condition of things in relation to taxes due to the State that the authorities have now somewhat tardily determined to alter in the way described. They further intend strictly to enforce the penalty of £20, and three times the duty on income ascertained to be liable, in all cases where there is gross inaccuracy in the return to the knowledge of the person making it; and in cases where no return is made at all they will in future exact the £5 fine whether the person is found afterwards to be liable over the £160 limit or not.

In last year there were several cases in which for ten years no demand for the return had been made by the local assessor. In one case the tradesman pleaded this as an excuse, but the surveyor held it to be no excuse because the tradesman knew he was earning an income liable to the tax, and it was his duty as a citizen to have ascertained by inquiry what his liability was, instead of taking advantage of the fault of the assessor in not serving the yellow paper. The sequel of this case was a curious one and illustrates what it is desirable to impress on all who read this work, viz.: the great consideration shown by the surveyors of taxes in all cases where the tradesman has been genuinely under a wrong impression, acknowledges his default, and shows a readiness to accept his liability. The surveyor first clearly stated

his own view that the liability extended back to the last payment of the tax ten years ago, so that the assessment at £7 per annum on the income the tradesman was shown to have been earning by his own accounts, came to £70. At first he was disposed to appeal, but the surveyor pointed out that he had gradually been acquiring property, which was ascertained by income-tax deducted from his rents, and that he had far better make a proposal for settlement than go to the commissioners. Acting upon that hint the agent obtained on the tradesman's behalf the full value of the facts—that he was an uneducated man, it was no intentional evasion, he had come forward at once when he *did* receive the paper, it was after all the fault of a government official that he didn't get the paper year by year, and finally it was a hardship to have to pay in a lump sum for ten years when he would willingly have paid each year ; and in the end after a long and courteous correspondence, half the sum was accepted in settlement and six months given to pay it in, so there was no need to borrow on the property.

This case is quoted to show that the surveyors of taxes who are the keenest and most highly trained of our civil servants, and are not to be deceived, are also gentlemen and open to equitable consideration of circumstances bearing hardly on the taxpayer, when satisfied of the *bona fides* of his case. No tradesman indeed laying his whole accounts before the district surveyor of taxes need fear that he will be charged more than his reasonable liability. The decision of the surveyor is usually accepted by the commissioners, and all tradesmen are strongly recommended to go to him instead of incurring the trouble, expense, and loss of time to their business involved in

appeal to the commissioners themselves. To conclude the special reference to arrears in this part of the work we will now proceed to examine the question whether the popular idea of the limit being six years is right.

With reference to the opening statement in this Chapter as to number of incomes over £3000 being 4004 in 1893, it is interesting to note from "Whitaker's Almanack" that seven years later, viz. 1910-11, there were 10,287 cases disclosing liability to the Super-tax on incomes over £5000, so that it would appear that the increased activity of the authorities so often alluded to in this little work, had an ample justification in the result, and points also to the simple inference that in 1893 there were many large incomes that evaded the tax in the years up to that date.

In concluding this Chapter on Evasions, the public attention is specially directed to the greatest offenders of all, namely, the Co-operative Societies.

These Co-operative Societies have hitherto enjoyed immunity from payment of income-tax by virtue of coming within the exemption clause of the Act, p. 30, as being of the nature of "Friendly Industrial or Provident Societies referred to in Schedule D." A Special Commission enquired into the subject a few years since at which the Inland Revenue Representatives admitted that the majority of co-operators being of the industrial class might claim exemption as having incomes of less than £160 per annum, but nothing has been done to remedy this unjust preference, and these great trading companies escape income-tax to an extent which has been reliably computed at two millions.

There are over $2\frac{1}{2}$ million co-operators, members of various Societies affiliated to and OWNING SHARES in one

or two Wholesale Societies in the country, who are in the main heads of families, and it is a crying scandal that these combined traders should continue to escape the payment of tax either in respect of their factories, their business premises, or their profits, and should return to their members annually dividends amounting to several millions without paying a fair quota to the National Revenue.

The time is surely at hand when the Government should remedy this antiquated Section and should tax the collective profits of this gigantic trading concern, for taking each member as the head of a family of four or five persons they amount approximately to a fifth or a fourth of the entire population doing joint business as members or shareholders of various Societies, and deriving profit from trade without taxation.

The gigantic nature of their trading may be realised best by the fact vouched for by one of their members, who openly protests against this deliberate evasion under the cloak of privilege, and there are millions of hard-working tradesmen who suffer from their competition, and who endorse this protest in very vigorous vernacular.

In a high-road in the north of London anyone passing on a motor-bus may see displayed on a large hoarding a long board with this invitation : "Edmonton Co-operative Society : 20,000 members. You should become a member." Was there anything in the beneficent legislation in favour of the Friendly, Industrial, or Provident Societies to authorise their spending membership money in advertising? No! they don't do that. They spend it out of profits made on a combined capital for trading purposes, and as traders they should pay taxes.

C.

AS TO RIGHT PERIOD OF CHARGE FOR ARREARS.

It is a curious state of things but it is a fact that different surveyors of taxes take different views as to the date to which arrears caused, as in the case just cited, by non-receipt of the demand in the form of the yellow paper for return in past years, should be arrived at. In that case the local surveyor of taxes held and maintained the view that the date of liability extended back to the last payment ten years ago, but he went even further than that, and said if it had been twenty years ago, there would be twenty years' arrears to pay. An eminent authority to whom the point was referred held that the limit was only three years, and that the right demand for arrears in that case should have been

Income for one year - -	£260	
Less abatement - - -	160	100
For three years - - - -		£300
At 1s. which was the rate to 1909 - - -		£15
Treble the duty for three years at £5 and fine £20		35
		£50

instead of the ten years which formed the basis of the settlement stated in the case quoted.

In another case the supreme authority (excepting that of the common law of the land), the Commissioners of Inland Revenue, after first making a claim of twenty years which was resisted, eventually agreed that six years was the proper basis and the case was settled upon that.

The circumstances of this case were so singular and the matter is one of so great importance to all occupy-

ing the position of executors that investigation of the facts was made. The names are not available because the case was dealt with by the Board of Inland Revenue and is not a published case, but it can be verified by the quotation of the number D51500 T 1907, by any person claiming to be charged only for six years quoting to the commissioners their own decision in that case. The claim originally made was in respect of twenty years' accumulated interest on a deposit account of the deceased amounting to £730, the tax on which at the varying rates of those years came to £32, and it was finally settled, on the six years' average of rates, for £13.

To revert to the main question as to which principle is right in law, there are cases that have been decided in the courts of law where the judges held that the statute of limitations does not apply against the revenue of the Crown (see case in Appendix, Attorney-General *v.* Till, settled by House of Lords, but the decision is by no means adequate or clear to the lay mind).

The opinion of most thinking people would probably coincide with that given by the eminent authority referred to, viz.: that three years is the limit, and this view is based on the equitable ground that as no person can recover more than *three years' excess of payments*, so no person should be liable for more than three years' arrears, but that is quite apart from the question as to whether the person in default is liable to treble the duty and £20 fine for not having made a true return, or in other words for concealing income.

It is a most interesting point, and perhaps some high judicial decision will authoritatively settle it in the coming year now the tax is so oppressively high.

It may be observed in closing this chapter that the

tendency of clause 23 of the Finance Act, 1907, is towards three years as being the limit for recovery of arrears and fines.

Section 1 says proceedings for recovery of any fine or penalty may be commenced three years after it was incurred.

Section 2 says any amendment of a previous assessment may be made in three years after the year of assessment, and the time during which, in cases of omission to charge any person, a charge may be made shall be a period of three years after the year in which the person ought to have been charged.

But Section 3 confines the operation of these provisions to cases occurring after the Act of 1907, and does not affect any right the authorities may have under previous Acts in regard to proceedings for arrears, and it is a pity therefore there is no settled case deciding the point in law.

In one important case a firm of solicitors administering funds in trust, were required for the first time to make a return on form 52^{B} of their trusts, and consulted the agent as to whether they were not privileged. He replied that they must make the return or themselves incur the penalty. Their client had made no return of certain income from property for twenty years, and was liable to the penalties for the whole time, but in view of the circumstances and considering that the omission was an inadvertence through ignorance and infirmity and not a wilful neglect, and that there was no binding decision as to the limit of arrears, it was agreed in the end to effect a settlement on the six years' basis. (See details of this important case, p. 116.)

D.

APPLICATION OF SCHEDULE D.

We now come to the incidence of the tax under this schedule which is the part of the impost principally dealt with in this work. For that purpose the schedule may be taken as applied specially to profit on trading—although, of course, all other sources of income, such as rents of property, dividends on shares, interest on mortgages, etc., have also to be stated. The latter are ascertained by the assessors from the deductions for the tax on rents, dividends or interest, but the former is subject to variation according to the results of business shown by the trading account.

Now the trading account all the world over, and whatever be the nature of the business, is—stock at starting, goods bought, and working expenses—against sales effected and stock left at finish, and the balance is *profit* where the debtor side is less than the creditor side, and *loss* where it is more. For the purpose of this work the author assumes it is less, and so shows a profit liable to the tax. The revenue authorities adhere strictly to this plain test in adjudicating on assessments that are questioned, and nothing in the shape of capital expenditure is allowed in the trading account as an expense of the business, as, for instance, interest on borrowed capital,

interest on own capital, cost of structural improvement, cost of additions to plant and fittings.

To illustrate the position clearly the agent and reader will now proceed to assume that a tradesman starts with a capital of £1000, and that his little private ledger shows that amount to be allotted between lease of premises, stock and cash at start.

The accounts in the private ledger should be as follows :—

Capital Account - - - - - -		Cr. £1000
Lease of Premises and Fixtures - -	Dr. £200	
Stock at Starting - - - - -	Dr. 500	
Cash opening Bank Account - -	Dr. 300	

So far the debits balance the credit, but to show the point about interest it is supposed that he has a family loan of £500. The capital account would be debtor for this, and the person lending it creditor. Personal drawings, say, £200, also go to debit of capital account, but bad debts made in the trading year are allowed as an expense of the business, and appear in the trading account in the private ledger. That little book is not a part of the ordinary books of the business, but simply gathers their results into a concise record (thus in a nutshell).

The trading account for six months on the figures assumed would be as follows :—

Stock on starting, 1 Jan. -	£500	0	0	Sales for the Six Months	£1990	0	0
Goods bought to 30 June -	1420	0	0	Bought Discounts allowed -	8	15	1
Rent, Rates, Wages, etc., to do.	211	6	5	Stock on Hand on 30 June -	660	0	0
Bad Debts written off for Half-year - - -	111	6	10				
Interest on £500 Loan, Half-year - - - - -	12	10	0				
Profit on Trading - -	403	11	10				
	£2658	15	1		£2658	15	1

This profit on trading goes to credit of capital, and the balance-sheet on all the figures above dealt with would show as follows on 30 June :—

Liabilities.						Assets.			
To Creditors on Bought Account				£1061	4 11	By Debtors on Sold Account		£1318	14 2
,, Trade Loan				500	0 0	,, Lease and Fixtures		200	0 0
,, Capital at start—						,, Stock on Hand		660	0 0
	£1000	0	0			,, Cash at Bank		86	2 7
Less Trade Loan	500	0	0						
	£500	0	0						
Plus Trade Profit	403	11	10						
	£903	11	10						
Less Drawings	200	0	0						
				703	11 10				
				£2264	16 9			£2264	16 9

In closing this chapter it is very desirable to add this observation :—

The important part of the tax to traders is this Schedule D, and the questions that arise under it are so many and so varied by the circumstances of each particular case that it resembles nothing so much as a vast game of chess. You imagine a man ignorant of the game (or with only that little knowledge of it which is a dangerous thing) tackling an experienced opponent—and you may guess the result. Now it is a well-known axiom amongst chess players that the important thing to consider is not so much what YOU are going to move, but what is your antagonist going to do when you *have* moved. That is precisely what goes on between the surveyor on one side of the table and the operator for the taxpayer on the other, and the expert has to be continually thinking in preparing to move—now it's all very well to do so and so —looks a good move, but if I do that he may do this.

E.

COMPARISON OF THE ACCOUNTS FOR BUSINESS AND FOR TAXATION.

THE next part of the matter is the comparison of the trading account for business purposes with that for taxation purposes showing where and why they differ.

To make this clear the agent has set out the trading account in more detail in the following page than is shown in the above summary, and it is better that the explanation precede the comparison.

1. First, then, the amount paid for taxes is not allowed as an expense because it is the King's share of the profit.

2. Next, the interest on capital borrowed is not allowed as expense, because without it the trade could not have been done, so the profit would not have been made.

3. Next, only two-thirds of the rent, rates, gas and water are allowed as expense where the tradesman lives on the premises (as he usually does), because if he had to live out he would pay those items in respect of residence elsewhere.

There are two other ordinary items of expense which are not dealt with in the above figures but require special mention here, viz. :—

Repairs to premises and additions to plant and fittings. It has already been said that no structural alterations

are allowed as expense, but such repairs as are necessary to keep the premises in proper preservation to comply with terms of lease *are* allowed, as also are reasonable expenses for horse-keep and maintenance of the horses, carts, harness, etc., in good working condition. Then as to plant or additions to fixtures, although the cost of these is not allowed as expense, a depreciation of 5 per cent on the value as stated at stock-taking *is* allowed each year off the net income shown in the account, and this provision materially affects the printers, builders, fitters, metal-workers, and such trades.

Now for the comparison. The trading account for business purposes summarized above would read in detail thus :—

To Stock on Hand 1 January			£500	0	0	By Sales - - -	£1990	0	0
„ Purchases -	£1420	0 0							
Less Discounts	8	15 1							
			1411	4	11				
„ Rent Half-year - - -			50	0	0				
„ Rates, Gas and Water Half-year - - -			11	3	5				
„ Taxes on Year - - -			12	19	4				
„ Carriage - - - -			19	0	0				
„ Advertising - - - -			24	0	0				
„ Wages and Petty Cash -			94	3	8				
„ Bad Debts Half-year - -			111	6	10				
„ Interest on Loan Half-year			12	10	0				
„ Profit on Trading - -			403	11	10	„ Stock on 30 June -	660	0	0
			£2650	0	0		£2650	0	0

The trading account for taxation purposes would read in detail thus :—

To Stock 1 January - -			£500	0	0	By Sales - - -	£1990	0	0
„ Purchases - - -			1411	4	11				
„ Expenses—									
Rent - -	£50	0 0							
Rates, Gas and Water -	11	3 5							
	£61	3 5							
Less one-third not allowed	20	7 10							
			40	15	7				
„ Taxes not allowed	£12	19 4	—						
„ Carriage - - - -			19	0	0				
„ Advertising - - -			24	0	0				
„ Wages and Petty Cash -			94	3	8				
„ Bad Debts - - -			111	6	10				
„ Interest not allowed - -	£12	10 0	—						
„ Profit on Trading -			449	9	0	„ Stock on 30 June -	660	0	0
			£2650	0	0		£2650	0	0

So that although the tradesman's profit was -	-	£403	11 10
He has because of the disallowances to pay on	-	449	9 0
i.e. on more profit than he has made by	- -	£45	17 2

(See reasons for these disallowances on previous page.)

FORM OF TRADING ACCOUNT FOR MAKING CORRECT RETURN TO INCOME TAX, SHOWING WHAT EXPENSES ARE, AND WHAT ARE NOT, ALLOWED FOR THAT PURPOSE.

DR. (*An Actual Case where Trader NOT Resident—Small Printing Business.*) CR.

To Stock on Hand beginning of year				£31	13	0		
,, Purchases paid during year *net*				182	4	9		
,, Purchases owing at end of year	£184	3	9					
Less amount at beginning	£151	7	11					
				32	15	10		
,, Rent, Rates, Gas and Water, allowed in full where residence is elsewhere, and allowed as two-thirds only where the residence is on premises								
Allowed in full as non-resident				72	11	0		
Less one-third where resident on premises £				—				
,, Wages paid to Staff				237	1	4		
,, Amount of Drawings by Partners or Proprietor, or any Annuity paid, not allowed at all	£78	0	0	—				
,, Petty Cash Expenses				12	14	9		
,, Other Trade Expenses, as Carriage, Advertising, etc. and Insurance				21	11	5		
,, Interest on Loan or Mortgage, not allowed at all	£	Nil		—				
,, Taxes, not allowed at all	£7	15	0	—				
*,, Repairs to the Trade Premises, or to Utensils, Implements, etc., allowed to amount usually expended to keep them in good condition according to previous accounts				26	12	11		
*,, Wear and Tear of Machinery and Plant where Property of Trader, or where he pays Rent for same and has to keep it in good condition. (In this case it was Rent.)				26	17	1		
,, Bad Debts, proved to be so, and estimated proportion of such as are doubtful				14	2	1		
				£658	4	2		
,, Profit on Trading, where this side less than the other				56	17	8		
				£715	1	10		

By Sales as per Takings Account *net*							£688	6 1
,, Sold accounts owing at end of year	£84	4	3					
,, Amount at beginning	114	8	9					
Deduct the difference from total receipts							30	4 6
							£658	1 7
,, Stock on Hand at end of year							20	0 0
,, Allowances in respect of old Accounts written off Liabilities in Bought Ledger and therefore Discounts to Credit							37	0 3
,, Loss on Trading, where this side less than the other								
							£715	1 10

*NOTE.—No charge for structural improvement of premises or for depreciation of Land, Buildings, or Leases is allowed.

F.

AS TO THE THREE YEARS' AVERAGE.

This is fixed by the old Act of 1842 and is repeated in all subsequent Acts, but in the case of a business just started (as that first dealt with) the assessment would be based on the six months' result, so that the £45 17s. 2d. (see page 22) would on the same basis amount to £91 14s. 4d. for the first year, which the tradesman would have to pay upon *more* than his own trading account shows as profit. The second year would be on the same lines, but the third year the average would come into operation. This is a most important feature of the tax, because a man may just about pay expenses on the first year, make a moderate profit on the second, and do a good business on the third.

Thus suppose he makes a profit			1st	year of	£50
,,	,,	,,	2nd	,,	250
,,	,,	,,	3rd	,,	500
					£800

the taxable amount would be an average of £266 13s. 4d. Of course the test is the same in the reverse case and we will assume the business is going *down*, as so many have in recent years. To illustrate this the following is an actual case, steady business, in which for many years the profit had been over £1000 regularly, till three years

ago when trade began to diminish, with result that it dropped to £800, and then to £600 profit. The average came to £800, and upon rendering accounts from the books showing that result—not to the commissioners for which there was no need—but to the surveyor of taxes for the district, that gentleman at once reduced the assessment from £1100 to £800.

In dealing with preparation of accounts for ascertaining the three years' average it is considered desirable to give examples of capital expenditure not allowed, and of the treatment of bad debts.

As to the first, there was one case he dealt with where the trade was that of a baker. The district surveyor had ordered him to put in a new oven before the certificate of sanitary fitness could be granted. The oven cost £50 and that was regarded as a necessary trade expense and so stated it in the accounts. The surveyor of taxes, however, decided in settling the three years' average with him, that it was not a trade expense, but was a capital investment for which the value remained as an improvement of the fixtures, and struck it out of the account, so that the baker had to pay income-tax £2 10s. on an article which the district surveyor had declared was necessary for him to carry on his trade! The same principle would be applied in many cases which will suggest themselves to the reader, as, for instance, a new lathe which would be regarded as an addition to plant, and a new churn as addition to utensils, and even a new and necessary cart would not be allowed as an expense, and new tools which are continually replacing old ones are expressly excluded as a trade expense. The examples might be multiplied many times, but these will suffice for the purpose of

illustrating the point at this stage of the work, although several others are shown in the table of general examples at the end.

Then as to bad debts. This is a much-vexed question. To incur them is hardship enough, but it is harder still when a heavy bad debt is not allowed to be charged for taxation purposes in the trading account of one year. In a case dealt with during 1911 a debt had been on the books for six years in the belief that it would one day turn out good. That hope was disappointed and it was found in the end to be hopelessly bad. It was thereupon written off the trading account for the year, but the surveyor would not allow it except as a charge spread over three years. His contention was that there should have been a reserve account for doubtful debts and a portion of it written off to that account *each year* of the six, but with the considerateness usually shown by surveyors of taxes and frequently referred to in these pages, this surveyor in the circumstances allowed it to be charged on the three years then under treatment.

A case that is more common was that of a butcher in a small way, who nevertheless made a big bad debt of £48 which when all legal costs had been paid became £68. By that time the debtor went bankrupt and the sheriff was robbed of his prey. Well, the surveyor of taxes would not allow it to be charged as an expense on that year, but said it must be spread over the next three years, so that this Gilbertian result happened, that the butcher had not only lost his money, but had to pay a year's tax on it! Now, of course, there is an explanation for this example of official humour. The fact is the case was one of those referred to in the heading under letter H in the

index, of a trade which being one of daily consumption of the commodity dealt in, viz. meat, it is not considered necessary to keep books or take stock. The author has already referred to the discretionary powers of the surveyors of taxes, and the considerate exercise of those powers in cases where a full and frank statement of trading is disclosed in accounts corroborating returns conscientiously made, but the surveyors also have powers of a punitive nature, and in cases where no proper accounts are made out, and no proper record of business done is kept, they give the benefit of doubt to the revenue instead of the person. A tradesman without a regular system of entering, in however rough a form, his daily takings, his expenses, and his purchases, cannot furnish an account to satisfy the surveyors, who regard all estimated accounts as unreliable. In this particular case, although all possible corroboration was duly obtained from the pass-book record of payments in and out, the rest of the accounts had to be estimated, because the tradesman was in the habit of taking a handful of cash each morning on going to market, and the surveyor did not believe the account represented all trade done, and for that reason disallowed the bad debt.

NOTE.—A case occurring in 1911-12 contains a detailed explanation of the importance not only of record, but also of preserving vouchers which are so often not obtained and put on a file as they should be where purchases are paid for at the market in cash (see pages 90-96).

In a case that occurred this current year (1913-14) another butcher had reversed this disorder of things by paying cheque for his market account weekly and religiously keeping and filing each voucher, but neglected to keep even a rough record of takings. The surveyor held account insufficient, so that the man has to pay amount assessed this year, and adjust next assessment on the basis of account for this year's trading, properly prepared from books.

G.

EXAMPLES OF EXPENSES CHARGED IN ORDINARY TRADING ACCOUNT AGAINST YEAR'S INCOME DISALLOWED.

THERE have been many such cases in the last four years.

In one account of the year's trading was charged cost of a journey to America to inspect certain machinery reported to the person claiming as suitable to his business. The inspection showed that it was not, considering the cost and other circumstances. The cheque for £130, price of return journey, was posted to "trade expenses account," but the surveyor of taxes would not allow it as a trading expense because it was capital expenditure in an abortive speculation, and *was not an expense necessary or incident to his profit on the year's business done.*

The case of a baker putting down a new oven has already been dealt with, but in that case it was regarded as an addition to structural value of premises. It really was in trade meaning a necessary utensil, but being a *fixture* was not allowed as such, and was treated as plant.

There is a provision for the allowance of utensils as expense, but only to the extent for what is necessary and customary as yearly cost. Take for instance a dairy. The owner *must* have new churns and cans now and again, and a fair amount for that is always allowed in

trading account, but the cost of a boiler for hot water to clean the churns and cans which was put into account as a trading expense, was struck out on the ground that it was not movable and could not be considered under the head of utensils. Such are the vagaries incident to the tax.

The regulation concerning the amount to be charged as expense of utensils is that contained in the "Notes, Explanations and Instructions as to Form of Return to Income-tax" issued every year—No. 11—showing what deductions are allowed from profits. That is the official way of stating it, but the plain English is "what can be charged as expenses". Amongst these is the provision for the *supply* or *repair* of utensils or implements to an amount not exceeding what is usually expended according to average of the three preceding years.

To take the utensils first. In the case of the dairy referred to there had been an expenditure in the three previous years of £60 in new churns and cans. In the next year it was necessary to renew the stock of churns and cans to the extent of £30, but on the previous average only £20 was allowed to be charged.

To deal with implements next. Take the case of a joinery business. A new turning lathe was considered as "plant," but the saws and other articles for cutting and joining work were treated as "implements" and allowed as expense.

In the case of a builder's business the ladders and scaffold poles and other things in permanent use were regarded as "movable plant," but spades and pickaxes, mortar-trowels, etc., were allowed as necessary expense on "implements".

In the same way in a florist and nurseryman's trade the mowers and rollers in permanent use were held to be "movable plant," on which 5 per cent depreciation was allowed, but the new spades, forks, rakes, hoes, etc., were treated as "implements" and allowed in the account as "expense".

From these examples there emerges the principle that "fixed" things, and, as in the building trade, things that can be removed to where they are required and yet are of a distinctly permanent or lasting character, are treated as capital expenditure for which the value of the asset remains, but by way of variation the necessary cost of keeping them in proper condition to do the work they were intended for is allowed as expense in the year during which they occur. This is notably so in the case of the asset nearly all tradesmen possess, viz. : the homely cart, or the handy bicycle for conveying goods—for both of which repairs allowed as expense.

H.

JOINT INCOME OF HUSBAND AND WIFE.

For the purpose of the tax the incomes of husband and wife are considered in all cases to be one, with the solitary exception, shown by note E on the white form issued by the surveyor of taxes, that where the wife earns her own wages by her own labour or industry independently of her husband she is entitled to a separate assessment, so that there are two assessments treated separately instead of one jointly. As an example take the case of a teacher at a board school. She leaves home at eight o'clock and after her day's work returns about tea-time. In one of the cases quoted (Chapter A1) the lady's own earnings amounted to £150. To this she had to add the rental value of the house purchased out of her own savings, £30, making £180 income. Against tax on this was allowance for two children, £20, and superannuation provision, £2 6s. 8d. (deducted from her wages by the London County Council, her employers). This brought her below the £160 limit on which no taxation is charged. The husband is a house-painter earning a precarious income on an average through the year of £1 5s. weekly = £65. The effect of the separate assessment is that neither pay the tax, but had it been one assessment on joint income, £245, they would have had to pay on that less abatement £160, leaving £85, the tax on which would have been less allowance on children and deduction of superannuation allowance, so they would have had to pay on £63.

I.

JOINT INCOME OF HUSBAND AND WIFE.

The foregoing case is a clear illustration of the relief that may be obtained, and the principle that the wife is entitled to the benefit of the results of her own labour or skill applies to any woman earning money on her own personal account whatever may be her trade or calling; as, for instance, the very common case of a milliner's or dressmaking business, and the still more common case of a sweet-shop or tobacconist, or a florist's shop, in either of which the result depends on her own industry, and her own management, but the general conditions of life prevailing are that the wife, where there is a separate income at all, derives it from interest on money invested in some form or other as dividends on amount of Consols, interest on mortgage of property, value of residence in own occupation of house purchased, rents from property left by will or conveyed by settlement. To illustrate cases where the wife's income is not earned by her own labour take one settled in the year 1911. The husband earned a casual income as a commission agent, with occasional jobs as an accountant which brought him in an income averaging £2 a week = £104. The wife received interest on £2,000 invested on property at 4½ per cent = £90. Together the income was £194, of this £160 was allowed for abatement on income over £160 but under £400, and allowance for two children, so the joint income was

liable to the tax as to 9d. on the husband's *earned* income of £104 and as to 1s. 2d. on *unearned* amount, £90—that is to say after deduction of £180 from joint income £194 they had to pay on £14 at 1s. 2d. because the abatement and allowance for children is first applied to the earned part of income which in this case was less than the abatement and allowance, so the balance, i.e., the difference between £104 and £180 = £76, comes off the unearned part of £90, leaving £14 chargeable at unearned rate.

NOTE.—The above illustrations are not affected by the alteration of the old principle of the income-tax laws that the income of husband and wife together be treated as the husband's income. The alteration effected by the Finance Act, 1914 (Session 1), stated in the table following the Preface makes them separate assessments, but only for the specific purpose there described.

J.

RECOVERY OF EXCESS PAID IN RESPECT OF JOINT INCOME (HUSBAND AND WIFE).

This is an important matter in cases where the income of husband and wife owing to the former having lost his occupation falls below £160. In such cases the husband can recover the payment deducted from the wife's income. To quote one example from many which have been dealt with. The husband formerly was for twenty years office manager and book-keeper in a large provincial industry, his principal being the general manager of the concern. At the end of that time the proprietors took over the management of the property themselves, with the result that the husband, owing to the stupid but prevalent prejudice against age (without regard to experience), could not obtain regular employment, and his earnings were such only as he could obtain from precarious auditing work. The joint income was an average of £1 a week for himself, and wife's income from property investment £60, which was plus the value of the house in own occupation purchased by her trustees in lieu of investment. The latter item did not enter into the claim for return of excess payment, but the whole joint income was £52 of the husband's and £100 of the wife's (i.e. £60 actual and £40 residence), so the husband claimed and received each year

the tax amounting to £3 which had been deducted by the people paying interest for the mortgage on their property.

The proof of payment required in this, as in all cases, was the declaration No. 185 signed by the person liable for the interest that the tax had been deducted and paid upon it, and stating the amounts in precise detail of name and address of each person to whom the rent of house, or the ground rent, or the interest on mortgage, had been paid by the person assessed, and the tax on same deducted and paid to the Revenue. This in fact is a personal voucher accepted by the authorities to avoid the trouble and inconvenience to the persons who have paid the tax charged and deducted it in remittance of rent, ground rent or interest to the landlord, owner of freehold or mortgagee, as the case may be.

K.

THE 9D. RATE ON EARNED INCOME (ORDINARY CASES).

CLAIMS to be charged at the 9d. rate on "*earned income*" must be lodged with the local surveyor of taxes *before the morning of* 30 September—otherwise the claim will not be allowed.

The form on which this application may be made is to be obtained from the local surveyor of taxes, i.e. if it has not already been done by signature to the declaration on the third page of the return to the tax (the yellow form). This is a declaration that the income from all sources is correctly stated above, and that the person declaring claims all and every relief that the circumstances permit.

The surveyor of taxes when satisfied that the return is properly made signs the form at foot of that page, intimating that the person is entitled to such relief, and that includes the charge on the "earned income" at the 9d. rate.

When, as sometimes happens, the person declaring has not signed the third page, although he may have properly filled in the income from all sources on the second page, he may on discovery of the omission rectify it, by obtaining from the surveyor of taxes a form for making the

claim to be charged at 9d. rate, and that form must be signed and lodged with the surveyor before 30 September. This is so particularly required that if sent by post it must be by the night delivery of 29 September.

In the dairy case treated in a previous chapter this question arose. Although it was successfully established that the mother was really a partner (against the contention of the surveyor at first that she was an annuitant), on the ground that her income from the business depended on *whether it paid or not*, the surveyor had his way in regard to the rate to be charged on her share of the profit. He contended that she was not an *active* partner, that she did not contribute to the result of the trading by assisting in the business, that the sons, who did all the work, were entitled to the 9d. rate as their income was "earned" within the meaning of the Act, but that her share depended on their industry, so that her income was "unearned" and therefore was liable to the 1s. 2d. rate.

This is a principle of far-reaching importance when one takes into consideration the large number of cases in which there are "sleeping partners" by reason of money being invested in the business on condition of receiving a share of the profit, or of a share being left by will, as in the case above dealt with—the point being, only the persons whose *individual* exertions contributed to the result are entitled to the relief of the allowance of the 9d. rate on "earned income".

NOTE.—It will be seen by the table of alteration at end of Preface that this ninepenny rate of the Finance Act, 1914, applies to incomes under £1,000, and above that it becomes 10½d., 1s. and 1s. 2d. on incomes of £1,500, £2,000 and £2,500 respectively.

L.

ALLOWANCE IN RESPECT OF CHILDREN.

The Finance Act, 1914, increases the allowance for every child born between 6 April, 1893, and 6 April, 1909, to £20 on incomes under £500. No claim in regard to children will be entertained unless set out on the form expressly provided by the surveyor of taxes for the district, and the form has to be applied for, where it has not been sent with the form of return. The particulars of full Christian name and surname, the date of birth and place of birth, have to be clearly stated, but it is not necessary to produce certificates of birth unless it is asked for by the surveyor of taxes, who has the power to require them in case of any doubt through insufficiency of particulars.

This is an important provision for clerks, tradesmen, and commercial travellers, and sometimes results in the total exemption of the applicant. For example, a tradesman who was assessed in 1909 at £30 above the £160 limit had five children under 16, and, on supplying the required particulars as above, was exempted from payment for 1909-10 and can repeat process next assessment; i.e. against liability to the tax he can set off allowance for children then under 16 on 6 April, 1909.

This allowance to children has been the occasion of

many amusing cases. In one of them a father had been married seventeen years, to April, 1909, and the wife had every year or so presented him with an addition to the family, so that the whole twelve children were within the statutory age for allowance of £10 each. In the last assessment he had to pay the tax on £60, his salary being £220 and the operation of the children allowance secured him total exemption, but for a considerable time he persisted in his idea that the Government owed him £60!

In another case the circumstances were still more humorous. The man had previously paid on £30 assessment and was entitled to exemption by operation of the children allowance, but when the agent was preparing the list he found the particulars as to the birth of the first did not fit in with the date of the marriage, and the father and mother both being present a rather embarrassing situation was created, until the comicality of the thing caused a hearty burst of laughter, which was the best solution of the matter, and the first child was described as "legitimized by subsequent marriage"; the man calmly saying they may as well claim the allowance as they could not dispute the fact.

M.

ALLOWANCE ON LIFE INSURANCE.

THIS is a relief to the income-tax payer granted by the Act of 1853 (Section 54), and has remained unaltered ever since.

The standing regulation is an allowance in respect of premium paid which shall be equal to one-sixth part of the income from all sources. Thus if a man pays £20 a year on his policy, and his earnings and income from other sources is £400 a year, he is first allowed abatement on £160, leaving him liable on £240, and then he is allowed on the fixing of assessment (so long as it is not more than $\frac{1}{6}$th whole income) the amount of premium he has paid to the Insurance Company. But it should be noted that this is first applied to the earned part, and if that is not sufficient the rest is applied to unearned part.

Where persons have made no claim in past years, and have finally become alive to the fact that they are entitled to make it, they can claim it for the preceding three years, and to do this they have to apply to a surveyor of taxes for the red form of claim to repayment of the excess, and send that when properly filled in *with the vouchers* of the payment to the Secretary, "Claims Department," Somerset House, and in course of a couple of months they will receive a money order for the amount so paid and not deducted for each of the three years.

The allowance of $\frac{1}{6}$th of the whole income on life policy of the person paying the tax (or on his wife's) is in the first place deducted from the ascertained *net* amount of "earned" income.

The direction on note 15 of form 11-1 is distinctly misleading. From the wording of that note one would infer that the allowance cannot be taken off the "earned" part, but the words really mean there can be no deduction of an allowance until the net income is ascertained, and the practice certainly is that all allowances after the abatement claimable is deducted—whether for children, insurance, or depreciation of plant—are upon the earned part of the whole income in the first place.

Thus, suppose a man earns £200 and receives £50 from property (or lives in his own house of rental value £50) his gross income is £250, and the abatement, £160, leaves him liable on £90, of which £50 is unearned, and net earned income of £40. He has three children, and the allowance for them reduces the earned income to £10. Then comes the insurance premium, say £15. The allowance for that first extinguishes the earned income, £10, and the remaining £5 is taken off his liability on £50 "unearned" income. Obviously the reason of this is that the Revenue allows so many ninepences instead of so many one and tuppences.

The clause therefore simply means that a man must *not deduct any allowance himself*, but must declare his full income, and sign the claim for all relief he is entitled to at foot of page 3. Of course he must give full particulars of his life policy on page 2, and send the vouchers of payment for premiums with the Return; also fill up page 4 with particulars of the children. Having done that, the Revenue authority deducts the allowances in making the assessment as above stated.

This allowance on annual premium upon life insurance was for years granted also in respect of single payment

premiums, i.e. a computed amount down to secure the policy for life. As an instance of this take the case of a man who wants to borrow money for business purposes while he is young, and is entitled to a reversion on the death of some one. Well, he may die before that person does, so when he goes to the Reversionary Society he gets the money he wants on the security of his reversionary interest, but he has to insure his life, and from the amount agreed to be advanced the society deducts a lump sum as premium on his insurance, and upon that payment he used to be allowed the annual deduction for income-tax, but quite lately (October, 1909) instructions have been issued to the surveyors of taxes that this allowance on a single payment premium is absolutely stopped for the future.

This fact is a striking indication of that arbitrary power of the commissioners to which the agent draws special attention in the earlier pages. It would appear to be a great hardship, and it will no doubt lead to appeals to the supreme authority—the common law of the land—during this current year 1912-13, but let the reader bear in mind what has been incidentally adverted to, that the authorities are at last keenly alive to the necessity for taking every advantage in the interests of the revenue from income-tax that is legitimately possible ; and let him then consider what was *really* the *meaning* and *intent* of the allowance on life insurance. It is plainly stated on the printed particulars in the forms issued every year that the allowance only applies to the insurance of a man's own life and that of his wife, and the object was to encourage a provision for the children without which they might become a charge upon the rates. It was in fact an in-

ducement to the *annual thrift* by which a certain portion of income was set aside for the purpose, and once granted this was the guiding principle of the allowance, it does not apply in the case of a man who having plenty of money of his own, or the ability to borrow it (as just explained in the instance of reversion under a will), prefers to pay a lump sum down in commutation of an annual premium for life.

In regard to this insurance matter it sometimes happens that husband and wife have separate policies on their respective lives, and in such cases the premium used to be allowed on joint income, but is now, 1914, on separate assessments.

Joint policies of insurance for benefit of people other than husband and wife are contrary to the intent and meaning of the Act of 1853 as set forth above, and the premium in such cases is not allowed as deduction from income liable to the tax,—*except in the case of partners taking out a joint policy*, which of late years has been admitted on the ground that they are in point of fact single life policies and rank, *pari passu*, with the separate assessment the partners are entitled to.

Finally, one other matter is worth mentioning. It frequently happens in the course of business that there is a bad year or two, and then it is not convenient to pay the premium, as in a case dealt with where the man had paid in seven years £700. He was unable to pay the next two years, but the insurance company kept the policy alive by applying the amount of surrender value in payment of two premiums. The third year business revived and he paid the whole three years, but during the two years he had NOT PAID he *was not allowed* to deduct *the premium* from amount liable to the tax.

N.

INSURANCE AGAINST ACCIDENT.

An allowance on the same lines precisely is made in the case of accident policies to the extent of the sum reserved in the policy to cover the contingency of death. To that extent it is a life insurance within the meaning of the provisions for deduction equal to one-sixth part of income from all sources in respect of annual premium paid.

Now the form of accident policies varies. Some are so worded that part of the premium relates to risk of injury or disablement, and the other part to the risk of death.

The allowance in calculating income reducible for taxation purposes on one-sixth part of the income is restricted to the event of death ONLY, and is applied in the proportion of the part of premium applicable to that contingency.

The amount paid in premium is not allowed at all where there is no distinction in the policy between injury or disablement, and the risk of death.

NOTE.—Since the above was written a case has arisen in which a Surveyor held that if a policy covered accident and death it would not apply as a life policy at all. As said in these pages before, views of surveyors sometimes differ. Reference to a higher authority elicited the fact that the general practice is to allow the *whole* premium on a policy of accident and death, the only differentiation being where it is a policy combining sickness with both, and in those cases the sickness part of the premium is disallowed. There is no recorded decision, the amount involved being too small to incur the expense of obtaining one.

O.

POSITION OF PERSONS INTERESTED IN THE BUSINESS AS PARTNERS.

THE matter is one of such ordinary occurrence by reason of the father bringing up his sons to the business that it is considered desirable to explain the operation by the actual account rendered in the dairy case before referred to.

While the father lived he was the sole owner, and the sons' *wages* and *occasional bonuses* were allowed as expenses of trading, but when he died the position changed, as the sons under his will inherited the business in equal shares on condition of allowing £4 a week to the mother for life out of the profits of the business. It was a cash business so far as the purchases were concerned, and reduced to its elements the account stood thus:—

Dr.			Cr.	
To Stock not taken being of daily consumption		—	By Sales—	
,, Purchases—			Milk—	
25,000 Barn Gals. at 1s. 8d. - - - (Winter Price)		£2074	50,000 Barn Gals. at 2s. - - -	£5000
25,000 Barn Gals. at 1s. 3d. - - - (Summer Price)		1567	Eggs - - -	500
Eggs $\frac{1}{12}$th of £500 -		417	Butter at 1s. 2d. -	600
Butter at 1s. 1d. -		557	,, Stock not taken being of daily consumption	—
,, Trade Expenses - -		100		
,, Replacement of Utensils as Cans, Churns, etc. - - - -		69		
,, Wages (Hands only) -		800		
,, Bad Debts incurred in the Year only - -		16		
		£5600		
,, Profit on Trading - -		500		
		£6100		£6100

It will be seen from this account that the business, had it still belonged to one owner, would have been liable to income-tax on £500, less the abatement allowed, £120, which would have left £380 at 9d. rate on earned income.

It was contended in this case, and ultimately agreed to by the surveyor of taxes, that the mother was a partner in the business, as her income depended on the trading result, although, so far as she was concerned, she could not draw more of the profit than £4 a week = £208, less abatement £160; and she was separately assessable on the difference, £48, at 14d. on unearned income.

This left £292 of the profit for equal division between the two sons, and they were separately assessable at £146 each, so that they were exempt from the tax altogether. The account shows that only the wages of the hands was allowed as expense.

The case is rather an important one for tradesmen as showing the power of the surveyors to analyse the account and strike out items or correct them. An attempt was made to recover property-tax on the ground that each son was exempt. The surveyor challenged the account, and on strict inquiry found the sons' allowance of £2 a week each had been included as wages of hands for the reason that they would have had to employ two other men had they not done the work themselves. That he would not allow as a trade expense, but treated it as their income, so they each became liable to the amount over £160.

This case is also of importance as illustrating the principle that new utensils necessarily purchased to replace those old and worn out are allowed as legitimate expenses of trading, and that bad debts are allowed as expense against sales to the extent of what was actually incurred in the year of trading, previous bad debts having already been written off to the date commencing the current year.

P.

CHARGE OF WAGES IN CASES OF SONS OR RELATIVES WHO ARE NOT PARTNERS.

This concerns that very large class of tradesmen who bring their sons or nephews up to the trade from early youth, and give them a share in the profit by means of commission or bonus from time to time, and the case just dealt with will suffice for illustration thus:—

Before the death of their father the sons were on the wages sheet the same as other men employed. There were twenty other men employed on the rounds and the sons were respectively in-door and out-door superintendents. If they had not discharged their duties some one else would have had to be taken on, because the work of superintendence is a necessity in the dairy business. The father, therefore, allowed one son commission on the amount of accounts collected on the rounds of 5 per cent, and to the other son he gave an occasional bonus according to the increase in the amount of milk, eggs, and butter resulting from the operations of the rounds-men engaged. In each case it was an incentive to secure vigilance, and the amounts of such commission and bonus in each case were allowed as a trading expense in addition to the actual standing wages, but had they been really partners those expenses would have been treated as drawings on account of share in profit of which illustration has just been given.

Q.

ADVISABILITY OF KEEPING BOOKS WHERE POSSIBLE, AND WHAT TO DO WHERE IT IS NOT REQUIRED.

Wherever books are kept the commissioners require their production in support of appeal against the assessment; and in cases of claim to reduce the assessment made to the district surveyor of taxes he also *may* require them, but if the accounts are prepared by a competent accountant *from* the books, his voucher of accuracy is usually accepted, and a deal of trouble saved to the tradesman and the surveyor, which in itself tends to facilitate a settlement on the best obtainable terms. One of the objects of this little work is to induce people to keep books, which however rough and simple will be a true record of business done, if they will only put down stock at starting the year, purchases, and expenses, against the sales and stock left; but there are a large number of cases where stock is not taken because of daily consumption, and books are not kept as it is a cash business and the tradesman buys his goods for ready money. In such cases the tradesman has his receipted bills for purchases and it is easy to put down in a memorandum book what they are and the same with expenses and sales, daily or weekly. The expenses should be entered under the heads of rent,

rates, taxes, gas, water, wages, petty cash. It is sufficient to corroborate these by the payments into and out of bank, but in some cases the habit of the tradesman is to take what cash he wants for buying from the till when he goes to market, as in cases above, *and* in such cases it is possible to construct a cash account of takings and payments, although not always to the satisfaction of the surveyor.

An example case of this given in great detail (pages 90-96), in which the tradesman claimed repayment of excess on the average for the time he had been in business (which was under three years, and therefore came within the purview of Section 24, Act 1907), shows that he would have succeeded had he kept a simple penny memorandum record of his purchases, but he arrived at the amount by induction (as explained). The surveyor was NOT satisfied and his claim was defeated.

R.

EXAMPLES OF INCREASING VIGILANCE OF THE COMMISSIONERS.

In the first portion of this work the powers of the commissioners and their intention to exercise them drastically are treated at some length, but it is now considered desirable, in view of the importance of the matter, to extend the observations. Those in the former pages referred mostly to the determination of the commissioners to stamp out the practice of evasions, but they have lately displayed a remarkable aptitude for discovery of incomes hitherto untouched, and their vigilance in the search is likely to be rewarded by considerable accessions to the revenue.

Three instances of this will suffice as illustrations of this new development of energy and ingenuity.

The first is in the case of the meat-market man who has for years escaped income-tax although earning £10, £15, or even £20 a week. The requisition to the employer to furnish names, addresses, and remuneration of those in his employment is now rigorously followed up, and employers are required to state not only the salary paid, but the commission earned by their men.

The next is the case of commercial travellers who are usually in receipt of an allowance for expenses. A

traveller is just as much entitled to deduct his expenses from his receipts as is a tradesman, but the commissioners are now insisting on those expenses being properly vouched, and so keen are they upon the scent that even hotel bills have to be produced to show the money spent in that way.

The third and most remarkable example is the requisition to boarding-house keepers, where—as for instance in the western central district—the proprietor is required to state the names and addresses of customers who periodically come to stay there. This touches the class of persons who have a comfortable income, such as the roving bachelor, who is sometimes in London and sometimes in the country, and who has hitherto managed to evade the tax-gatherer, or has simply not known of his existence. Of this he will now be made aware, and will have to contribute his due quota to the revenue.

How far this operation will extend may be readily guessed when one considers the vast number of single ladies with private incomes who frequent one boarding-house or another at different times and places, also the migratory widow who spends the winter in London and the summer in the country.

It will go farther, in reaching the husband and wife without children who prefer a nomadic life to the regular home.

In these and other cases that may be imagined the people are all pretty well-to-do, but having no permanent address have hitherto been untroubled by the service of the papers requiring them to make return to income-tax, and through mere oversight have escaped taxation. Under the new vigilance that oversight will not as a rule occur again.

S.

CONCERNING APPEAL AGAINST ASSESSMENT.

In the previous pages the settlement of liability on three years' average with the surveyor of taxes for the district has been recommended as the most expeditious and economical method of arriving at the lowest possible amount, but there are many people who prefer submitting the matter to the commissioners on appeal, for the reason already given that it is thought more authoritative than the surveyor's decision. To say to such people that it is not so, would be simply begging the question; so let the facts speak for themselves.

The commissioners meet about the first week in October to fix the assessments for the current year. The decisions of the surveyors of taxes which have already been accepted by the commissioners in the previous months form the basis of the assessments in those cases. All other cases are reported on by the surveyors, and their reports must be sent in by the morning of 30 September. The commissioners decide upon them and fix the assessments as they think just. When all assessments are settled the notices of amount found liable are sent out by the clerk to the commissioners.

Then any person who thinks himself aggrieved by excessive assessment is entitled to appeal, and he must notify his intention to appeal within ten days of receipt

of notice of the amount assessed to the local assessor. Afterwards it will be too late. He will receive notice of the date fixed for hearing, and then he has to attend with his accounts and books to prove his three years' average, and that is all there is about it; except, as said before, that the commissioners' decision is final as to facts, and appeal to the courts against it is strictly confined to questions of the legal interpretation and application of those facts.

Although the above statement as to the right of appeal being barred after ten days of receiving the Notice of Assessment there are exceptional circumstances in which the surveyor will re-consider the assessment and so dispense with appeal altogether. The case quoted at some length in the last chapter of the book furnishes a clear explanation of this.

Recovery of Over-Payment on Last Assessment.

One of the peculiarities of our income-tax regulations is that the assessment for the current year is based on the average of the three preceding years, and is so fixed before the income from the current year's business can possibly be known. That, in vulgar language, is "putting the cart before the horse," and yet it is the natural corollary incident to our system of taxation, because the Chancellor of the Exchequer has to base his Budget on an estimate for the revenue of the coming year; but there is a remedy for this apparent incongruity which is the re-adjustment of the next assessment when the result of the current year is actually known.

Thus when it is clear from the average of three years to the date finishing the current year that the last assess-

ment was excessive, repayment of the excess paid can be obtained on production of the voucher showing the amount then paid and obtaining a form for the purpose of making the claim from the surveyor of taxes. In that form the applicant must state the figures on which he relies to prove that the current year of trading made a lower average of three years to that date than the amount charged in the last assessment, and then he has simply to forward the claim and voucher to the Secretary, Claims Department, Somerset House, when in a few weeks' time he will either receive the amount overpaid in cash, or his next assessment will be readjusted to the right amount. This means that cash repayments only apply to concerns started within three years or to concerns discontinued during the year.[1] In all other cases the only remedy is the readjustment of the assessment for the current year. The following form illustrates the position in cases where income turns out to have been less than £160.

FORM OF APPLICATION FOR REPAYMENT OF EXCESS CHARGED WITHIN THREE PRECEDING YEARS IN CASES WHERE INCOME LESS THAN £160.

In the case quoted previously where a person had been employed for twenty years in one place and was suddenly thrown out, the facts were as follows. The income used to be £250 a year on which he regularly paid tax. On losing his berth he could not earn more than £1 a week on casual work, and the income of self and wife being under £160, he successfully claimed return of money

[1] This alteration of the old principle of repayment by cash in all cases was effected by the Finance Act, 1907.

deducted from her part of the income on amount invested in mortgage—first for three years in one sum, and then annually. The same principle applies in the case of *sole* income of the man where for any reason having paid tax on more than £160 his earnings become less.

The form of application is kept by all surveyors of taxes and he has to go to his local surveyor and ASK for one. It is a white paper, No. 40, and headed thus:—

Income Tax.—Exemption Claim.

Claimant's name in full and residence.....
Name of money order office at which repayment is to be sent.....
Declaration of income from every source stating amount from each and deduction from any part as per following example:—

	Amount received.	Deductions.
Earnings on Sundry Commissions - -	£100 0 0	
Amount received from rent of house at -	40 0 0	
Deduction made in rent remittances by tenant—say at 1s. - - - - - - -		£2 0 0

Having completed this form he must post or take it to the surveyor of taxes, or to the Secretary at Somerset House, addressed "Claims Department" in corner of envelope, and he must send with it the voucher for the payment of the tax by his tenant, and then in a few weeks the £2 so deducted will be sent to him by money order, payable at the office he names. This form of voucher (already referred to) is No. 185, and is supplied by the surveyor to be signed by the person who deducts the tax from his rent, and this is accepted in lieu of the actual receipt. As a further illustration the following is given.

T.

RECOVERY OF TAX ON "UNEARNED" INCOME FOR THREE YEARS (BEYOND WHICH PERIOD THERE IS NO RECOVERY). TYPICAL CASE OF THAT LARGE CLASS OF PERSONS WHO ARE RETIRED AND LIVING ON SMALL INCOME IN THEIR OLD AGE.

This is an actual case (treated during 1911), where an old gentleman got back the property-tax on two houses and amount deducted from Bank of England stock for the three years 1907-1908, 1908-1909, 1909-1910.

For the enlightenment of readers of this work the figures are given here exactly as they were sent in on form No. 40, with the vouchers showing the payments made in respect of property-tax, the deduction of tax from the bank dividends being ascertained by the Surveyor from the books of the bank. The repairs to the property were allowed for as usual, to the extent of one-sixth of actual rent value, in fixing the assessment to rates. It is important to mention this as there is no expense for repairs charged in the accounts against income. The headings and rulings of Form 40 are given.

No. 40. INCOME TAX EXEMPTION CLAIM FOR 1908-1910 (three years).

Income not exceeding £160.

Claimant's name and address in full.....

Money Order Office at which repayment is desired.....

Declaration that the following is a true account of income from every source and amount claimed £12 2s. 2d., said declaration being signed and dated.

Particulars of income from every source whether taxed or not.

	Income.	Tax paid.
Rental value of own residence for the three years, £26 15s.	£80 5 0	£1 6 9 1 6 9 1 11 2
Rental value of house adjoining for the three years, £30	90 0 0	1 5 0 1 5 0 1 9 2
Income from a trade superannuation fund, 10s. weekly for three years free of tax	78 0 0	
Income from Bank of England stock £54, two and a half years	135 0 0	7 17 6
Total amounts of income and tax paid thereon	383 5 0	16 1 4
Less—ground rent on the two houses £25 each year at 1s. 1907-1908, 1s. 1908-1909, 1s. 2d. 1909-1910	75 0 0	3 19 2
Total of income less charges, and amount claimed to be returned	£308 5 0	12 2 2

Average income of the three years £102 15s. (i.e. under £160) entitled him to recover, and after some small deductions were made he got back £11 8s., and repeated the operation in 1912, getting one year's taxes back.

It must be understood by the reader that the following Chapter was written for the former editions and the rate of Tax on property is altered, also the children allowance is increased, but the principle of repayment of excess remains just the same.

U.

Recovery of Property Tax (Schedule A) where Income under £160. Important to Thrifty People Buying their Own Houses and Rearing Families on a Slender Income.

Example.—Actual case (treated during 1911) of commercial traveller in fancy goods trade who bought his own house and that adjoining with aid of a mortgage. Having paid property-tax he recovered the amount paid for the three years, 1907-1908, 1908-1909, 1909-1910, on rendering this account with application for repayment on Form 40, and producing vouchers for ground rent, interest and own tax payment.

1907-1908.

		Property tax paid by him - £1 15 0	
		Less paid on mortgage interest - 0 14 9	£1 0 3
Salary and commission - - -	£145 12 10	Mortgage interest paid - - -	14 3 6
Rental value of own house and that adjoining allowed to be taken together at rate assessment	35 0 0	Ground rent paid £10 less tax 10s. -	9 10 0
		Repairs to the property - - -	5 0 0
		Income from all sources - -	150 19 1
	£180 12 10		£180 12 10

1908-1909.

				Property tax paid		£1	15	0
				Less paid on mortgage interest -	0	14	2	1 0 10
				Mortgage interest paid - - -				13 13 1
Salary and commission - - -	£157	14	9	Ground rent paid £10 less tax 10s. - -				9 10 0
Rental value of own house and that adjoining as above -	35	0	0	Repairs to property				5 0 0
				Income from all sources - - -				163 10 10
	£192	14	9					192 14 9

1909-1910.

				Property tax paid		£2	0	10
				Less paid on mortgage interest -	0	14	10	£1 6 0
				Interest on mortgage paid - - -				13 0 9
Salary and commission - - -	£157	15	7	Ground rent £10, less tax 11s. 8d. - -				9 8 4
Rental value of own house and that adjoining as above -	35	0	0	Repairs to property -				5 0 0
				Income from all sources - -				164 0 6
	£192	15	7					£192 15 7

The repairs on these three accounts were disallowed on the ground that one-sixth of real rental value had already been allowed in arriving at rateable assessment which is always taken as the basis for the property-tax to the owner. That £5 a year struck out made the figures for 1907-1908, £155; 1908-1909, £168; 1909-1910, £169. This made the average of the three years £164, and he would have had to pay on £4, but the allowance of own life assurance each year, £6 8s. 6d., made him exempt and entitled him to recover property-tax paid for three years less the mortgage and ground rent portion of the

tax, and he got back £1 15s. 5d., and can repeat the operation each year the conditions are the same.

NOTE.—In this case the deduction of tax on £10 per child was not required as life assurance allowances cancelled liability on £4.

RECOVERY OF PROPERTY TAX FOR THE YEAR 1909-1910, ONLY IN A CASE WHERE THE CHILDREN ALLOWANCE OF TAX ON £10 PER HEAD ON THOSE UNDER SIXTEEN ON 6TH APRIL, 1909, EXTINGUISHED LIABILITY TO PAY TAX UNDER SCHEDULE D.

Actual case (treated during 1911) of a managing clerk who received a fixed salary of £185, and was buying his own house in a building society by small monthly instalments. He paid property-tax on the rateable value of £30 at 1s. 2d. on his own house, but the rental value on the rateable basis of £30 being part of income from all sources was added to the £185 salary, making £215, and deducting the amount of total exemption £160 he was liable to the tax on £55. Having six children who were under sixteen on 6th April, 1909, at £10 = £60, the tax allowance on that exempted him altogether and entitled him to recover

The property-tax he had paid on £30 at 1s. 2d.	£1	15 0
Less tax on ground rent £5 at same rate -	0	5 10
	1	9 2
And *less* tax on twelve instalments to building society of £4 3s. 4d. per month = £50, the interest portion being 5 per cent = £2 10s. at 1s. 2d. - - - - - - - -	0	2 11

so he got back

The difference between the above - - -	1	15 0
Less ground rent tax 5s. 10d. and interest tax 2s. 11d. - - - - - - - - -	0	8 9
	£1	6 3

or, as he humorously remarked, "enough to buy the missus a picture hat".

In both the foregoing cases the people had a vague idea they were entitled to something, but did not know how to get it till they consulted the agent, who did; and that being so *generally*, the reader of a work on the whole subject of the tax is entitled to the information which is simply this. The applicant has only to go to the office of his local Surveyor of Taxes and ask for form No. 40, "Income Tax Exemption Claim". The Surveyor does not *send* it, so it must be applied for personally, either by self or the agent dealing with the claim. If a man can fill it up himself correctly, well and good, but as a rule it is far better to employ an expert, who saves him a lot of time, uncertainty and trouble for a small fee of remuneration.

The reason for the many variations in forms sent out is that one official collects the tax under Schedule A and another under Schedules B, D, and E. Schedule C is collected "at the source" from public securities; i.e. by deductions before dividends or interest are remitted. Now, under Schedule A the property-tax is recoverable by persons whose income from all sources is under £160, but the whimsical peculiarity of the incidence of the tax is that it has first to be paid upon the demand, and then when the return of income from all sources is made, if the assessable amount is below £160, the person paying it can get the amount refunded on production of the voucher for payment, and application for the repayment on the special form for the purpose provided by the surveyor of taxes (No. 40 given above).

This feature of payment first and repayment afterwards when the claimant at the end of the financial year shows

he is entitled to the refund, runs through the whole gamut of the income-tax notation.

The declaration of income for the forthcoming year is based on the same principle of reasonable anticipation of events to come, which forms the theory of the National Budget year by year, so that the taxpayer before he knows what he is rightly taxable upon has to pay the taxes according to last assessment, and then claim relief if he finds at the end of the financial year he is not liable by reason of his income being actually less than £160, or such other amount as his assessment was.

U 1.

Table of Exemptions and Abatements Generally and the Necessity of Signing Third Page of Form of Return Claiming the 9d. Rate on Earned Income.

1.—If total income from all sources is under £160 total exemption is allowed.

		Leaving to pay on.
2.—Where income is below	£400	
the abatement allowed is	160	£240
3.—Where income is below	£500	
the abatement allowed is	150	£350
4.—Where income is below	£600	
the abatement allowed is	120	£480
5.—Where income is below	£700	
the abatement allowed is	70	
		£630

6.—Where income is *over* £700 no abatement is allowed at all.

It is most important to the hard-working tradesman —and indeed to all engaged in business—to bear in mind that the claim to be charged at the 9d. rate on earned income must be made by signing the declaration at foot of page 3 of the large yellow form called the "Return". The directions as to this are fully given under section letter L—also how to remedy an inadvertent omission to sign that page.

So liable are people to overlook that little signature that at the risk of repetition the author draws special attention to the matter in closing the main part of this work, because if any such omission is not rectified in the way indicated in section letter L the result will inevitably be that the income declared will be charged at the 1s. 2d. rate, and after the *morning of* 30*th September* the claim to be charged at the 9d. rate will not be entertained.

U 2.

SPECIMEN FORM OF NOTICE OF ASSESSMENT, SCHEDULE D.—SHOWING PROVISION FOR "ALLOWANCES" TO BE DEDUCTED FROM THE INCOME FROM ALL SOURCES. IN THIS CASE THE ONLY DEDUCTION WAS 5 PER CENT ON VALUE OF PLANT.

	Amount of Assessment.	Duty Payable.
Profits of trade, profession, employment or vocation (in this case trade only) - - - - -	897 0 0	
Other profits, *nil* - - - - -	—	
Deduct allowance for wear and tear of machinery and plant. The year before plant was - - £900 and allowance 5 per cent - - 45		
Left carried forward - - £855 allowed this year farther 5 per cent - - - -	42 0 0	
,, Life assurance allowance	—	
Net amount chargeable at 1s. 2d. in £ - - - - - -		
Net amount chargeable at 1s. in £ ,, ,, ,, 9d. in £	855 0 0	
	£855 0 0	£32 1 3

Dated, 15th day of October, 1909.

Signed.....Clerk to the Commissioners.

Then follows the formal direction in each case, viz.:—

A. *Appeal.* —Notice to be given to surveyor with complete trading account for each of the three years ending 5th April, 1909.

B. *Expenses.*—Particulars of all deductions before arriving at profit.

C. Abatement, allowance for children, or for life assurance not already allowed to be claimed by notice to the surveyor with prescribed forms for list of all children and vouchers for premiums paid on life policy.

N.B.—*In each case notice to Surveyor must be within ten days of receipt of this notice of assessment.*

NOTE.—In this case the plant and machinery was all hand-power operations, and classed "slow-moving," on which only 5 per cent depreciation is allowed, but with steam-power the plant and machinery is considered "fast-moving," and 10 per cent is allowed each year for wear and tear.

It may be added here that the plant depreciation is an allowance after the whole income is ascertained, and not as to the particular part which is "earned" or "unearned".

In a former chapter it is pointed out that depreciation is also allowed on what is called "movable plant," and in illustration the case of a builder is quoted, where he has to move his mortar-mill, ladders, scaffold-poles, planks and what not to the part of the work where they are required as the building proceeds; and this would also apply to a crane for lifting and placing materials.

NOTE.—Questions often arise as to what plant can be properly considered. This is a matter that requires very special handling. In a 1913-14 case, decided on appeal, a new motor-car was charged by the expert who prepared the accounts at £200, although it cost £300. He had allowed £100 for the old one, and claimed to charge the difference as a "renewal". After considerable discussion and proof of certain payments the Special Commissioners very fairly met the case by allowing £180.

V.

THE ECCENTRICITIES OF THE HOUSE DUTY.

In the former pages of this work there has been occasion to touch on some humorous characteristics of the principal tax, as, for instance, where a baker had to put in a new oven at a cost of £50, on the order of the sanitary inspector, and it was not allowed as an expense although he could not carry on his business without it; and where a butcher had made a bad debt of £48, which was not allowed as a loss because the result had not been ascertained at the time of his making up his accounts, and yet the debtor's estate was in bankruptcy, so that he not only lost his money but had to pay tax upon it! *but for sheer absurdity* the house duty, in common parlance, "takes the biscuit".

Now this part of the Income Tax Demand Note is usually not troubled about, being so small, but to a man living in a little house of under £20 rental value it means (at 3d.) 5s. 3d. if the value is charged at £21. He is exempt from it *under* £20, and it is very remarkable how frequently the assessment is made just that figure without rhyme or reason; also that when a man discovers the error and applies to have it rectified, he is told that although he can recover *income* tax paid in excess of right amount, he cannot recover *house duty* wrongly paid,

but it won't be charged next year, just as if the authorities had patted him on the back and said, "Now be a good boy and you won't have to pay it again". The right thing to do is to refuse to pay the collector, give him the ground of refusal in writing, and let him get it rectified by his District Surveyor of Taxes *before paying the tax demand.* They are bound to adjust the matter between them. In one case the agent assisted a man to whom that 5s. 3d. quoted above was as much as £5 3s. to another person, and got him off the duty and the property tax as well; but the public as a rule do not know of this playful variation of the house duty as distinguished from the tax on income, and it is too trifling a matter to the individual in most cases to trouble about.

That, however, is not the case with landlords, and particularly those who own that troublesome class of property called "weekly". In a case dealt with during 1911, a gentleman's income consisted entirely of his investments, after retiring from City life, and he could never understand why it was his weekly houses were assessed to the poor-rate at £14, and he was charged inhabited house duty at £20. The matter was taken up and precise accounts made of income and expenditure necessary to the property, showing the man did not actually receive £20 rent, after charging rates, water, and insurance, to say naught of repairs. Then the agent was curious to learn on what basis £20 had been fixed for the duty. "Why not," he said to the Surveyor, "have put it at £19? The rate people allow one-sixth of rent for repairs, and the Revenue treats the charge for property-tax on the same basis. Then why the difference in regard to house duty?" The reply was that the house

duty was based on what the Surveyor considered *real* rental value, and he was not bound to take that value from the rate assessment. The prompt rejoinder to that observation probably hit the mark. It was this: "With all due respect, Mr. Surveyor, the real reason is that £20 is not exempt and £19 10s. would be," and then there was a hearty laugh on both sides which practically settled the matter, and the three years' duty charged and paid was allowed in a general readjustment of the whole income. The point of this case is that there is no real principle in fixing the assessment to house duty, and landlords will do well to look into the matter *before* not *after* payment, as once paid there is no recovery.

But the most humorous feature of this whimsical impost was disclosed in a case of quite another class. Here it was the tenant who was the aggrieved party. He used his business premises for business purposes only, and let his upper floors to people to live in. There was a separate street door and passage to stairs, and so practically the residential part was a separate tenement. While the rooms were occupied the house duty was paid in the ordinary course, but last year they had been empty, and the agent claimed the excision of house duty from the tax demand. This was resisted by the Surveyor on the ground that the shop and the living premises were not separate tenements within the meaning of the Act, because although the shop people did not use the upper floors, they could if they liked!

It was in vain that the agent pointed out the very essence of the duty was that it was chargeable on the inhabitant—the person who slept there, and *no one slept* there. Then who was the person charged? Some one who didn't. Why? These little witticisms were as

water on a duck's back, and the treatment gave rise to the reflection that even the keenly-alert mind of the highly trained Surveyor of Taxes is not proof against the influence of the official atmosphere of opacity that surrounds him; as a celebrated Irishman once said in the House of Commons, "They are iron-bound with red tape". The Surveyor in this case was one of the brightest, best, most experienced, and yet even he solemnly took down the Act, turned up the passage, and quoted it to show that as there was no dividing wall, there COULD be access from one part of the premises to the other, and therefore it was an inhabited house within the meaning of the Act, although it was not inhabited!

Could the sense of humour in the official mind go one better than this? But the result was that although, as a matter of *principle* the authorities would not yield, as a matter of *fact* they did, and the assessment was not pressed, and that is often the case in other matters.

It appears the house duty treatment in various districts is at the caprice of the Surveyor. In a country case a man paying £50 rent and assessed less $\frac{1}{6}$th, had nevertheless to pay house duty on £64, because it was a repairing lease, and he would have had to pay more rent had the landlord done the repairs. When that Surveyor was told the man had spent £40 instead of £14, and logically the duty should be charged on £90 if his view was right, he quickly altered it. The reverse operation occurred in a little. Surveyors say they are not bound by rateable value in fixing house duty which is based on rental value. Well, in this case the rate value had been reduced by £5, and to the surprise of all concerned, both the property tax and house duty came down too. So the title of this chapter on house duty is well chosen.

Case of a Waterworks where the Questions involved were whether the Expenditure was properly chargeable as Trading Expense, or part Trading and part Capital Expenditure.

Waterworks are amongst those concerns other than Mines which are provided for on Form 11b under Schedule D.

The amount returnable to the tax is the profit on these concerns according to accounts for the year preceding only—that is not on the average of 5 years as in the case of mines—and not on the average of 3 years as in ordinary trading; but the trading account is still precisely the same as in an ordinary business except that there is no stock at beginning or end. It is, in fact, as it is usually described, a "revenue account".

The first question indicated in the above heading was the nature of the items of expenditure. For that purpose the accounts were supplied to the agent and he found they were all for plumbers' work and other requisites, without which the trading profit could not have been made. In other words, there was no expense beyond absolutely necessary repairs, renewals and supervision, and therefore nothing that could be held to leave a realizable asset, or a tangible addition to the original plant in the shape of extension or improvement.

Having satisfied the authorities that this was so, there was no further trouble in passing the account of Cash Receipts and Expenses.

The real difficulty arose on the second question of the heading concerning depreciation of plant account as an annual charge on trading profit. This was resisted by

the authorities under the decision of Lord Gifford in the case of Caledonian Railway *v.* Banks, in which it was held that depreciation could not be allowed as an expense in the case of a waterworks, but the anomalous position of the matter was that it HAD BEEN allowed for years by the District Surveyor of Taxes, and was only challenged last year by his successor. The matter is under appeal against that gentleman's decision, and the result may not be known before this appears; but the agent expressly draws attention to it as a further illustration of the fact he has frequently adverted to in these pages, viz. that the decisions of Surveyors often vary, but if one happens to be a wrong decision, and it is afterwards corrected, the *person concerned cannot take advantage* of the mistake, and one of the principal powers of the Commissioners is that they can correct their own people's errors without being answerable to the taxpayer for any consequence to him.

In this case, if the ultimate decision is unfavourable, the consequence will be serious to this extent that the trading profit will be increased each year the depreciation has been deducted, i.e. to the extent of 5 per cent on the capital value of the plant, which was originally £4000, and as there have been no additions for many years it now stands at £3125. Let the reader understand it is not a case of wear and tear of machinery, which would have been allowed each year without question; but of solid old-fashioned, well-constructed waterworks set up some thirty years ago, and if he is a curious man he will have an interesting problem to consider. Probably the solution will in the end be that suggested by the agent, and regarded favourably by the London authorities he consulted, that when the decision is known

and assuming it be against depreciation *as such*, a compromise shall be effected by a reference to the Special Commissioners.

There is every feature in the case for a reasonable compromise. In the first place it is a small waterworks up in one of the many hill districts of Ireland. Its supplies are purely local, and the income after all expenses paid is only about £100 a year. Not being a limited company it could be treated as a private trading concern, and if the decision is hostile the agent has suggested that an average of the last 3 years, with the usual abatements of those years, be accepted in satisfaction—in consideration of the great hardship which would be inflicted on this little business if the depreciation allowed by the responsible Revenue Officer for the Crown the last 10 years had to be repaid out of the small profit made.

NOTE.—In the result the matter *was* compromised by a nominal charge.

V 1.

Important Case laid before the London Authorities on the Question: Is a Provision for "Reserve Account for Doubtful Debts" admissible as an Expense in a Trading Account for the purpose of Income-tax?

In country districts well-to-do firms of solicitors often act as bankers for their clients. The person propounding this important inquiry was the head of such a firm in a large manufacturing town whose present Surveyor of Taxes held (against the view of his predecessor) that the charge made year by year of a portion of profit to cover doubtful debts was contrary to the law; and the reference to the question was occasioned by a case

quoted in this book (page 26) where a debt found to be bad at the end of 6 years was allowed to be spread over 3 years by a London Surveyor who, at the time, observed "this should have been written off to Reserve Account proportionably each year of the whole six years".

The circumstances were as follows: Twenty years ago a manufacturing firm put their estate into the hands of creditors. The administration was placed in the hands of the solicitor who agreed to supervise and finance the business so that the creditors should ultimately be paid subject to his firm receiving interest on advances necessary to work the concern; and in that sense they became the bankers of the business, and for their own security also became mortgagees of the mill and machinery. For 12 years the trading was so worked at a profit, and out of that the solicitors regularly returned the interest on the advances as a part of the general income of their firm. Eight years ago there was a slump in the article manufactured, so far as their town was concerned, the thing having been more economically produced in other districts, so that this particular concern did not continue to earn a trading profit as before, and the firm did not receive interest as before. Then the experiment was tried of letting the mill and machinery to people who thought they could work it to better advantage, but after a time the tenancy was ended because trade became worse instead of better through the industry gradually leaving the district, so the solicitors found their security on their hands—a veritable white elephant.

In view of the eventual loss anticipated in this state of things the financing firm carried each year a large amount of their own profit as solicitors and bankers to

a Reserve Fund for loss on this particular part of their general business to recover gradually the £3000 which was the consideration of the mortgage, and that operation was allowed and passed in the accounts for income-tax by the Surveyor of Taxes for the years 1906-7, 1907-8, and 1908-9, but in 1909-10 a new Surveyor was appointed, and he not only refused to allow the charge of reserve for doubtful debt but to permit it to be written off as a bad debt until it was proved so in the final event.

The agent's opinion was clearly that the right course was to go back to the origin of the loss, make the debt a bad one from that time, subject only to realization of the asset, and re-write on the other side into credit the amounts that had been written off year by year to the reserve for doubtful debt, but the case was so important that the solicitor asked the agent to consult the best London authorities. He did so, with the following result :—

Having stated his view that the right way to prove the debt bad was to have the present value of mill and machinery fixed and the balance written off as bad, he quoted in support of it the practice in bankruptcy where a creditor partly secured has to assess the value of his security and the trustee may take it over at the amount so assessed; and having, on the other hand, stated that in all his experience he had never had a reasonable amount of reserve to cover "doubtful," as distinguished from "bad," debts, called in question, the answers he got from the high authority consulted were as condensed into this précis report of a long conversation :—

1. In the whole of the Income-tax Acts there is no provision for a reserve for doubtful debts being re-

cognized as a proper charge on trading, but in *practice* it is frequently resorted to and passed by the Surveyor to cover specific amounts in suspense as in the case quoted by the agent (page 26).

2. Referring to debts considered doubtful, Section 50 of the Act of 1853 expressly states that the value put on such a debt must be estimated by the person making the Return to the Tax, as, for instance, in the case of a bankruptcy where the value of a debt is the probable amount of dividend, and the duty would be upon the amount so estimated as an item in the accounts on which Return is based.
3. The conclusion arising from that provision is clearly that the balance may be considered "bad" and written off accordingly, although the Surveyor was right in saying the debt must be proved to be bad as laid down in Rule 3 of the old Act of 1842.
4. As, however, this was not a question of bankruptcy of the debtor, but a case of loss in financing a business taken over in trust for creditors and the advances secured by a mortgage on the mill and machinery, the course suggested by the agent, that this deteriorating asset should be valued afresh, and the balance between such valuation and the original amount of £3000 invested in the mortgage be written off as absolutely bad, was a course that the Commissioners would probably approve, providing there was only one assessment, and not a separate assessment for the manufacturing business, as in that case the loss would be a loss of capital invested which could not be allowed in the trading account of the other business.

The agent's reply to that observation was that the firm combined the business of bankers and solicitors, and in their books this was a client's account for money advanced, and that the business of the debtor had not been purchased, and on that explanation the authority consulted continued thus :—

5. That being so, the case is covered by Section 23 (Sub-section 1) of the Customs and Inland Revenue Act, 1890, which allows the loss on one branch of a business to be set off against the profit on the other.

The course originally recommended and thus approved was adopted, so that the matter now only awaits the valuation to settle the amount it is at present worth, and then the whole of the issues will adjust themselves, and tax be paid on result.

In concluding this review of a complicated case, the agent cannot speak too highly of the great courtesy extended to him in consideration of his having written this work. Indeed the patience and the care shown in following the points of the case, and answering them so fully, was directly at variance with the popular notion, as to official reticence.

V 2.

Case of Dividends received from Investment in the Colonies, and position of recipient in regard to money advanced by the Banker with whom Shares deposited, and as to his liability on Income from all sources.

The inquirer in this case was entitled to income of £220 per annum on the Colonial investment. Arriving from the Colonies early last year, he opened an account with the bank here, and on the security of his shares borrowed

an amount on which the interest was £100 for the year. He wanted to know if he could charge that payment as an expense in his Return to Income-tax. The answer, of course, was that he couldn't, as it was interest on capital, which is not allowed as expense out of income. It was also pointed out that he had anticipated £100 of his income, so that he was liable on the full £220 at the unearned rate, 1s. 2d., but from reply to questions it was elicited that he had bought his leasehold house and paid £10 ground rent, also that he had insured his life and the premium was £12, also that he had two children under 16, so that he received some comfort by having a statement of account in support of his Return drawn thus :—

Income from dividends		£220 0 0
Rental value of own house .	£32 0 0	
Less charge for ground rent .	10 0 0	
		22 0 0
		£242 0 0
Less abatement		160 0 0
		£82 0 0
Less allowance for insurance		12 0 0
		£70 0 0
Less allowance on 2 children . . .		20 0 0
So that he was only liable on . . .		£50 0 0

instead of the £110 he had made out before, being a Colonial and not knowing he was entitled to the abatement of £160.

This case is quoted to show there is often misunderstanding as to the item of interest, which is a payment to some one else for use of capital, so it is *that* person's income on which he pays the tax ; also that some people do not even know they are entitled to an abatement of £160 on income up to £400.

V 3.

Special case for 1910-1911, *where the issue was then in suspense and the result doubtful, showing the difficulty that supervenes where no proper books are kept, although on the merits of the case the person is entitled to recover excess Income-tax paid for the year* 1909-1910. *This case is also useful as explaining the functions of the District Commissioners which are not touched upon specifically in other cases in the book.*

In this case the man had not paid income-tax for some years except that deducted at source from rents of his property. He had no business, until in 1908 he got tired of doing nothing, and opened a large pork-butcher's shop in an eastern suburb where his property lay so that he could look after both. He spent a considerable sum in making an up-to-date shop, and deliberately started selling the best pork, the best beef and mutton and ham, etc., at the price of inferior stuff as sold in other shops of the locality. The immediate consequence was a shop thronged daily with good customers. They went there for their joints for Sunday, they went there for their hot pease pudding and boiled pork, or sausages for week-day dinner or supper, their lard and dripping and everything they could get there. Never was there apparently such a flourishing shop. Yet the profit was absurdly small, and although the business was worked briskly from 10 in the morning till 10 nightly, no better illustration of the agent's opening remark as to long hours and little benefit could be given.

The first result so far as the income-tax is concerned was a demand by the Surveyor of Taxes for payment of

seven years' taxes, no Return having been made for those years for the simple reason that the man had not hitherto been in business, and had never been served with the notice to make one. The Surveyor, in the exercise of the arbitrary power so often referred to in these pages, had assessed him at a profit of £400 for the year 1907-8 in which he had started business. Without consulting anyone, he wrote the Surveyor disputing the assessment, and was courteously invited to call and discuss the matter. So the unwary fly walked into the parlour. Then the game began. He had paid everything in cash and sold for cash only, but he could produce no account of his trading as he had not bothered about keeping books, and relied for his own guidance on the payments into and out of Bank, but he had paid ready-money (as so many concerns of his sort do) for things bought from carts calling daily at the door. This represented a large amount of the takings that did not go into Bank. Hence the Surveyor held the Bank Account to be insufficient and unsatisfactory, and not only stuck to his assessment of £400 profit on trading, as the man could not prove by *Accounts* that he had not made it, but intimated that apart from that question there was a liability to the penalty for not making a Return for the whole seven years. Without going into details, which is not necessary, the sum the Revenue claimed was close on £100. The man obtained an adjournment for the purpose of making up some sort of account for the year he had been in business, and that he did, but still the statement was unsatisfactory for the reason given. A period of worry and trouble in attendance at Surveyor's office ensued, and then that gentleman being at last convinced there had been no intentional

evasion to defraud the Revenue, as the man had made no regular income for six years, considerately agreed to make the basis of settlement the amount assessed on the seventh year, £400, plus something for each of the former six years (on the ground that he must have made some income in one way or another, as the Surveyor shrewdly remarked), and in the end the *net* settlement for the whole seven years was fixed at £40, which was paid to be done with the miserable business.

Taught wisdom by experience, the man started keeping a little book in which he religiously entered all his takings, and his market purchases, but he could not find time to keep accounts, or secure vouchers for his cash buyings at the door and petty daily expenses—a fact which everyone in such a trade will understand. Now comes the difficulty stated in the heading of this case. The accountant called in early in the year 1911 found from the accounts he drew up for 1910 that the profit had been only £140 instead of the larger amount that had been assessed and paid upon for that year rather than incur the trouble and expense of appeal. The question was, could he recover the excess paid on what actual result showed? In the conviction that he could, a claim was made out for repayment on Form 40, and sent to Somerset House with a letter which obtained immediate reduction to a reasonable amount for 1910-11, leaving the question of refund for 1909-10 to be dealt with by the Surveyor. The claim was shortly thus :—

Income from all Sources whether Taxed or not.	Amount of Income. £	s.	d.	Tax Paid. £	s.	d.
Gross amount of rents from freehold and leasehold property	518	14	0			
Less allowance for repairs and rates on gross rental as represented by tax (Schedule A) payments in outer column	212	4	0	17	4	7
Net income from property	306	10	0			
Profit on trading as per verified account herewith	140	2	2	4	6	0
Total amount of income and tax paid thereon	446	12	2	21	10	7
Less ground rent on leasehold houses and tax thereon	22	10	0	1	5	9
	424	2	2	20	4	10
Less statutory abatement on over £400 and under £500	120	0	0			
	304	2	2			
Total of income taxable less allowances as under:—						
Two-thirds of £304 from property at 1s. 2d. £11 13 4						
One-third of £304 from trading at 9d. 3 16 6						
15 9 10						
Less allowance on life insurance and children 8 16 3						
Difference deducted in outer column £6 13 7				6	13	7
Total of income less charges and tax claimed to be returned	£304	2	2	£13	11	3

The claim had to be made in this complex way by the requirement of the form, but simply stated the position is this. The man actually paid £20 4s. 10d. Without allowance for insurance and children he was only liable for £15 9s. 10d.—difference £4 15 0

But in addition to that difference he was entitled to insurance and children allowance 8 16 3

Showing same result . . £13 11 3

It will be seen from this carefully prepared claim, to support which all the vouchers of payment were forwarded, that the man is entitled to return of £13 11s. 3d. excess; but whether he gets it or not turns exactly upon that insufficiency of account represented by the cash buyings at the door and at market for the business of which he has no record, and which should have been entered in a petty cash book, however rough.

The present position is that the Surveyor is not satisfied with the estimate of that expenditure, and has declined the responsibility of a decision, which is therefore referred to the District Commissioners.

Now these gentlemen are notoriously hostile to any account that is not properly vouched, and although one may explain that the estimate of expenditure not vouched is based on the practical requirements of the business, including the cost of keeping the staff in board and lodging (on which items the Surveyor has raised, and will report to his superiors, a doubt as to the cost of that keep for which the meat part is supplied from stock), yet it is in the power of the Commissioners to disallow expenditure which is not proved to their satisfaction, and as this part amounts to about £4 weekly, the result may be that £200 of expenditure will be added to the profit, and so the claim to be repaid excess £13 will be defeated.

All that can be done is to counteract the Commissioners' views by getting the principal to be examined personally before them to state verbally all the details of expenses of which there should have been some written record, such as the bills for bread, milk, butter, cheese, tea and other things that are necessary, besides meat, for a staff of 4 men and a boy, laundry and charwoman.

The moral of all this to the average tradesman is: "Keep some sort of record of all you receive and of all you pay out".

Since the above was written the agent appealed before the District Commissioners in July on the ground that it was a case coming within the operation of Sec. 24 of the Act of 1907 and the applicant was entitled to claim repayment of excess for one year, the business having been commenced within three years of the first assessment.

After much argument and patient consideration the Commissioners agreed to waive the Surveyor's objection to admit the unvouched items of expense, as their common sense recognized that in such a business the tradesman could not be expected to take a receipt for sundries continually purchased with cash at the door, but they required a further trading account for one year, and left the agent to deal with the Surveyor on the average of those two years as the repayment could only be for one year, and as to that he was to satisfy the Surveyor, or come before them again.

In the end, after a deal of correspondence and severa interviews, every point of objection was met or compromised except the main objection that there was no proper account of purchases, although the cash register recorded every penny of takings. The reason given for no record of purchases was that the man took cash every morning to market, and only got his sale ticket stating weight and price and never asked for a receipted bill. Consequently he had no vouchers, and could only get at what he expended in meat and sundries bought, by deducting from his total of takings each week what his expenses were for the week; and the remainder must be what he

had paid for his goods. All other points being settled, this explanation may possibly be accepted, but what the agent fears is that when he goes before the District Commissioners again this year they will not relax their inexorable rule to refuse repayment in all cases where no proper accounts with vouchers have been produced. A simple record in a small book of the amount he had spent in the market each day would have sufficed, but there is not even that, and the case is quoted at this great length because it concerns tradesmen of all sorts throughout the whole country to know that in claiming either repayment of excess, or reduction in the current year's assessment, they must produce accounts showing what they bought, what they laid out in expenses and what they sold, in however rough a form, PROVIDED THE ENTRIES WERE MADE AT THE TIME.

The result of this case, declared in December, 1911, bore out the fear that is expressed above. The Commissioners absolutely refused to certify the repayment on the ground that in the absence of a record of purchases, however rough, *made at the time of purchase*, the accounts were incomplete and the tradesman was not entitled to recover.

In another case precisely the same ruling was given disallowing a claim to have the assessment reduced where the business had been established more than three years, and for exactly the same reason, that the accounts were not complete.

It is worth while in concluding this chapter to draw special attention to a point taken by the Commissioners which would have been fatal had everything else been right, viz., that the weight tickets did not bear the Revenue 1d. stamp and could not be put in evidence.

W.

SOME NOTES ON SCHEDULE A AND LAND-TAX.

THERE is a considerable confusion caused in the public mind by the variations in the assessments Schedule A according to the class of property. Last year Mr. Wedgwood (the member for Newcastle-under-Lyme) questioned the Secretary to the Treasury about compounded property where the hardship to the owner often occurs that he spends on the property more than he really takes in net rent.

The question and answer are given here as quoted in the press, and they speak for themselves.

Income-tax Assessments.

Mr. Wedgwood (of Newcastle-under-Lyme) asked the Secretary to the Treasury whether income-tax on compounded house property must be paid on the gross assessment for poor rate purposes, less the one-sixth allowed for repairs, or whether a smaller assessment would be accepted if it could be shown that the net rent actually received was less than the above.

Mr. Hobhouse (in a written reply) says: "In the area governed by the Metropolis Valuation Act, 1869, the

assessment to income-tax Schedule A is determined by the gross value as fixed by the various assessment committees. Outside that area the District Commissioners of Taxes are the authorities for determining the value of property for income-tax purposes, which may or may not be identical with the gross poor rate value. In each case duty is payable on the value of property so arrived at (subject to statutory allowance) for the period of occupation."

It will be observed that the only relief is the allowance for empties indicated in the concluding words of answer—"for period of occupation". It is the empty houses that cause deficit in rent, and that is the point of the hon. member's question.

All this is in regard to compound on weekly property, large and small, but what seems to concern the ordinary owner of property is the difference that often happens in the assessment to the poor rate and the assessment to the income-tax, and from the answer to the above question it will be seen the cause lies in the variety of the authorities.

It is commonly thought that the income-tax assessment is bound to be the same as the assessment to the poor rate, but there is really no binding power, and that it mostly *is* so happens because it has become a practice. In discussing the matter with one of the Surveyors of Taxes, he told the agent they were merely *guided* by the rateable assessment as an indication of value, and not in any way compelled to accept that figure. This accounts for the occasional difference referred to.

There is another matter in that connexion which puzzles a great many people, and that is why the house-duty is charged upon a greater amount than under Schedule A. (See Chapter on House Duty, p. 77.)

The answer is that the property tax is based on what is approximately the net value, and the house duty is on what the Commissioners consider the rack-rental, or full value.

N.B.—There is only one note it is considered necessary to make on the land-tax, and that is many people don't know they are exempt from that tax if the income is under £160, and exempt as to half of it if income is under £400.

X 1.

APPENDIX OF ADJUSTED CASES, 1911 AND 1912.

Case of Omission to State Mortgage Interest in the Return.

Another most interesting case in which special services were required was one of a discovery by the Surveyor of Taxes that a man had for three years failed to disclose in his Return to the tax that a second and third mortgage existed on his property and the tax had not been paid on the income received by the mortgagees. The fact would probably have remained unknown but for the circumstance that the man went bankrupt, and the proceedings being reported in the Press, came under the notice of the Surveyor, who wrote the bankrupt to know why he had not stated the two mortgages in his Return as charges on his property and indicating that he was liable to the penalty for not making a true Return. The man, being unfamiliar with the income-tax regulations, consulted an agent, who saw what the Surveyor really wanted was to recover the unpaid income-tax for three years. The question was who was responsible, and after investigation it turned out that the tax had regularly been allowed by the mortgagees in their interest demands, and the receipts on remittance of the amounts were for amount due so much, tax so much, total so much, and the bankrupt had *simply pocketed himself the amounts he*

should have sent to the Revenue! The agent, satisfied it was an omission through carelessness and ignorance, managed to get the Surveyor to agree in that view, and gave him such information as to estate in the hands of the Official Receiver, that by arrangement a notification was sent to that person of the prior claims of the Crown over costs or any other charge, and the money was paid—a striking instance of the vigilance of that quiet gentleman, the Surveyor of Taxes!

Case where Income formerly consisted of Rents from Property and Business Earnings which became from Property only, and what happened; showing one cannot take advantage of a Revenue Error.

This is a case which may concern many people, and is, therefore, given in much detail:—

A gentleman who had been thirty years with a large City firm found his services dispensed with when the old folks died and the young men came in—a common occurrence. His salary had been for years £200. In his younger days he had come into some money, and invested it in freehold and leasehold property, bringing in £240, which was rated at £200 (allowing one-sixth for repairs). The property tax Schedule A being based on the amount assessed to the local rates his income was, therefore, £200 earned and £200 unearned until last year when his earned income ceased. Formerly he was allowed £160 abatement on £400, and should have paid the tax on £240. Well, he didn't, for the simple reason that the Somerset House people had by some extraordinary error allowed the £160 abatement TWICE! i.e. they had actually de-

ducted it on business income under Schedule D, and on property income under Schedule A, although the returns were truly made each year; so that for some years he had only paid on £80, less allowance for insurance to the amount of one-sixth of whole income.

In the meanwhile a fresh Surveyor of Taxes was appointed, and this new broom began to sweep very clean. He discovered by the last quinquennial valuation that this property had not paid its quota of taxation for a long time through the blunder of the central authority referred to, and proceeded under the powers of the Act of 1907 to claim three years' arrears, amounting to £7 each year.

Then came the tug-of-war. Here was a man without income from earnings suddenly called on to pay arrears of £21, when his total present income was only liable on £40, the property part—i.e. £200 less abatement of £160 —the £40 in turn being less allowance for insurance.

It was in vain representation was made on the man's behalf that the amount of the tax would have been paid yearly if it had been claimed; that the fault was not his, but the Government's, and finally that the accounts produced showed a much greater expenditure than the one-sixth allowed for repairs in the assessment so that he was really not getting anything like the income of £200 from his property. The Surveyor was adamant. He said they were bound by the regulations, and could not allow more than the statutory one-sixth; that it would have been allowed even if *less* or *no* expense had been incurred on the property, and he could only allow for the time the houses were empty (a very small item), but he was quite willing, as suggested, to allow a reasonable time for payment considering it was a very

hard case. The "reasonable" time turned out to be first payment at once, second in December, third on 7 January. This was considered to be most unreasonable in the circumstances, and the agent suggested to his friend that as from his experience he knew the authorities are always ready to compromise old matters to get rid of them, and as probably the Surveyor had no power to deal with the matter on that basis, the right course was to make an offer of two-thirds cash down, and borrow the money from his bankers on the securities held, even though interest would be 1 per cent more than Bank rate. That brought the amount down (after allowance for empties) to £12, instead of £21 claimed; and after a full representation of the case to the Secretary of Inland Revenue, the proposal was so far considered that the point was met half-way, and the matter was compromised at £16. The lesson conveyed in this case is that the taxpayer cannot take advantage of an error in the Revenue Department, and that the *status quo ante* for three years back is revived when the authorities discover the error.

Another Case showing that although the Authorities may Blunder the Taxpayer cannot take Advantage of the Error, but has to Pay the "Additional Demand" Issued when the Mistake is Discovered, even though it be years after the event.

In this case a manager of a Limited Company paid regularly on an assessment of three years' average of his salary, which had gradually risen to £300. This was with the sanction of the Surveyor then in the district. A new Surveyor was appointed, and discovered that his

predecessor had wrongly allowed the average basis which is *not applicable*, under the Act, to remuneration of officers of Public Companies or Corporations (Schedule E). In these cases the actual salary each year is the amount assessable to the income-tax, and in that respect it differs from the basis of three years' average which obtains in case of a trading concern.

The new Surveyor also found that by the published accounts of the Company the manager's remuneration for this year, 1910-11, had risen to £400, and a demand was sent in accordingly. The manager wrote the agent inquiring if he should appeal. The advice given was "no, certainly not; pay and say nothing. You are in the wrong, and on the principle that two blacks don't make a white, it doesn't put you right because the former Surveyor was wrong in allowing you to pay on average. If you appeal you raise the question whether you ought not to pay the difference of assessment for the salary of each year, but that probably won't be raised if you simply pay." Result: He paid and heard nothing more. Moral: Don't force an issue unless sure of the result, or you may be worse off.

A Contrary Case under Schedule E where Non-application of Average was to the Advantage of Taxpayer, and in which the Case was fought because he was in the right.

In this case the man was a traveller for a wholesale provision house at a salary of £150. In September, 1909, he joined another firm in same line at £325 for first six months and £350 after. He was one of those numerous instances of the careless man who hasn't time or won't

take the trouble to deal with income-tax in time. His new firm was a Limited Company. His salary was discovered from the published accounts, and he was assessed at the 1s. 2d. (or fourteen pence) rate for 1909-10, because he had not claimed the 9d. rate on earned income. Consequently he had to pay £11 13s. 4d. Upon a consultation it was found that he ought not to have paid more than a small portion of that if the thing had been taken in time; but being in default by reason of his negligence he must pay first and recover the excess afterwards. That was done. In making a claim for repayment of excess (on Form 40) applicant must produce the receipt showing the payment. This having been forwarded to the Surveyor the claim was for repayment thus:—

Five months' actual salary at £150, April to September, 1909	£62	10	0
Seven months' actual salary at £325, September, 1909, to April, 1910	189	10	0
	£252	0	0
Less abatement	160	0	0
	£92	0	0
Less also allowance for seven children . .	70	0	0
	£22	0	0

Leaving amount liable at 1s. 2d. (*as* 9d. *rate not claimed*), £1 5s. 8d., and in a month the man got back the difference between that and £11 13s. 4d. paid, viz. £10 7s. 8d., but, as stated above, he had to fight all along the line. First the authorities required a certificate from each employer that the salary paid was not more than stated, and that nothing was allowed for expenses out of which the

applicant could have made a profit. They then required a specific statement from each that no commission had been paid in any shape or form. Finally, when a declaration had been obtained that the applicant was simply a buyer for the firm and not a seller on commission, they gave in, and promptly repaid the excess. Moral: "Before you fight be in the right".

Case showing Astuteness of Surveyors in Analysing Accounts and the Wisdom of sometimes letting well alone.

This was the case of a restaurant where the business had (from causes that need not be stated) steadily gone down from £500 profit to £400, and £300, and £200, till, in the last year, it showed a loss of £100. Each year the assessment had been the same, and had been paid, but this last year the agent was called in to obtain repayment of excess. Then occurred one of those instances of incomplete disclosure of the facts, which in the end result in failure. On the accounts, certified by the agent, the business appeared to be entitled to return of £8 10s. excess paid, but he was confronted with the unexpected discovery that the Returns had been made at only £50, and although the assessment had been made at £400 each year AND PAID, less £160 abatement, the fact *that an untrue Return had been made* year by year was held, and rightly held, by the Surveyor to be a bar to the claim for repayment of excess. The man had far better have let it alone, because he had really incurred the penalties for all those years amounting to over £100 for systematically making a wrong Return, and it was only the representative's suggestion that the proprietor was a foreigner who did not

understand what he had done that protected him from the consequences of his misrepresentations.

This case is instructive as showing the keenness of Surveyors in analysing accounts. All the old records were turned up with the result stated, and the books were called for. In a moment the Surveyor's eye was running down the expense side, and pounced on an item Dr. Jones £20, which he ruthlessly struck out as part of the profit drawn, and *not a trading expense necessary to make the profit.* Other instances were detected, and the whole would have made a serious difference if the claim had been persisted in, but, on full consideration, it was dropped with no damage except that the excess was not recovered.

Cases showing the Importance of Signing Claim for Relief at foot of Page 3 *on the Yellow Paper, or, if that has been omitted, of getting a Form from the Surveyor and lodging same before the morning of* 30 *September to secure the* 9*d. rate.*

It often happens that the Return is correctly filled in, but claim for relief, at foot of page 3, is not signed. If that is not done the 1s. 2d. rate is charged on earned income—unless the person having discovered the omission goes to the Surveyor, who will provide him with a special form that has to be sent by post on 29 September, or lodged by the *morning of the* 30 *September.* After that it is too late, and the 9d. rate will not be allowed no matter what the cause of omission was.

On this point the authorities are inexorable.

The following cases illustrate this sharply. In the first an officer of a ship had been at sea over a year. The

vessel had been reloaded with a waiting cargo, and he had not even landed because of superintendence duty. His papers had been sent from home, and amongst them was the Return to Income Tax, which he filled up and posted, claiming the 9d. rate, but it was *after the* 30 *September*, and on his coming home from that voyage he found he was charged at the 1s. 2d. rate. After a lot of correspondence and an affidavit of the captain that the officer had not been in England the whole year, so could not make the Return before 30 September, the authorities gave in on the ground that he had not been "resident in England".

In the other case the man was not so fortunate. He was a master mariner, who also made return and claim to 9d. rate after the 30 September, and the inquiries of the authorities into his movements showed that he had at some time in the year before that date landed, and stayed with his family for three days. This they held to be technically "residence in England," and would not budge from their decision to charge the 1s. 2d. rate because he had not claimed the 9d. rate in time.

Carelessness in this respect is not an exceptional but a common thing, and the concluding case now given shows what annoyances result that a knowledge of official operations would have avoided.

APPENDIX of cases settled by legal decision, expressly selected to show what is real profit within the meaning of provisions of Schedule D of the original Act, 1842; also the difference between capital expenditure and expenses considered necessary to earn profits, and many other points of interest to those engaged in trading concerns.

Special cases as to what is trading expense:—

A.—In which hotel company not allowed to charge cost of injury to a guest.

B.—In which a manufacturing company was not allowed to charge cost of the material from which they extracted products when it became exhausted.

C.—Important case in which a brewery company successfully contended on appeal to Court of Appeal their right to charge compensation cost on tied houses as a trade expense.

D.—Case in which a small limited company claimed abatement, the income being under £160. Held that it applied to persons or firms only and not to limited companies.

E.—Deduction of income-tax before arriving at amount to be paid in dividend not allowed.

F.—Important case (1910) of not making a true return, and agent's note upon it.

Special Cases Involving the Crucial Question "What is Trading Expense?"

It has already been pointed out that one main duty of the Surveyor of Taxes is to ascertain what is properly allowable as *trading expense.*

A.

On a case stated by the commissioners, Income-tax Act, 1842 (5 and 6 Vic. c. 35), the question raised was whether a company who owned a hotel, and were sued for damages for injury to a guest by the fall of a chimney, and who lost the action and had to pay the costs, were entitled to charge those damages and costs as an expense of their trading, to reduce liability to the tax under Schedule D.

It was held that the amount so lost by reason of the company's negligence was not an expense necessary for their business to earn profits, and so could not be charged as against the profit liable to the tax on the year's trading result (Strong & Co. *v.* Woodifield, W.N. 92, 1905; 2 K.B. 350).

B.

In another case of an English limited company whose profits arose from trading in nitrates and iodine extracted from a substance called "caliche," for the manufacture of which they had put up plant and machinery in Chili, the "caliche" in time became exhausted, and in their

return to income-tax under "investment abroad" the company claimed the right to deduct from receipts a proportion of the cost per annum of the property, on the ground that its value had disappeared through exhaustion of the "caliche".

It was held that the company were not entitled to charge any part of the cost as expense of trading, because it was capital expenditure without which the trading could not have been done, and the profits made during the term of the business were fully liable to taxation. So the judgment of Channell, J., 1904, 2 K.B. 666, was affirmed by Court of Appeal, C.A., 1905, W.N. 3, 1 K.B. 184 (Alianza Co. *v.* Bell, Surveyor of Taxes).

This is an important case as showing what is regarded as capital expenditure, and not as expense of trading. The right course for the company to have adopted was to charge the trading profits each year with a portion of the cost of "getting" the "caliche," just the same as is done in the brickmaking industry, where it is necessary to get a stock of clay on hand continuously week by week so that it has time to be properly "weathered" and ready for making into bricks as required. If that had been done the company would have paid less income-tax on profits year by year. This decision was appealed against in the House of Lords, who held the company were not entitled to make any deductions on account of exhaustion of the deposit, so the C.A. judgment was affirmed (H.L. (E), 1906, A.C. 18).

C.

Rightful Deductions from Trading Account of a Brewery in Respect of Tied Houses.

This will be seen to be a case of general applicability in the trade. The brewery company owned licensed houses which they let to tenants on the usual covenant to buy all beers from the company. By means of these houses, which were necessary to the brewery plant or outfit for profitable working of the business, the company were able to earn larger profits than they could otherwise have done, and upon those enhanced profits the income-tax had been regularly paid. The company were compelled under Sec. 3 of the Licensing Act, 1904, to allow to the tenants of these houses deductions from the rent in respect of the company's share of the annual compensation charge imposed on licensed houses, and the company successfully contended that in arriving at the amount of the profit of their trade as brewers assessable to the income-tax a deduction ought to be allowed in respect of the sum which they were compelled to pay for the compensation charge as being an expense *necessarily* incurred in carrying on that trade. The reader will observe the question of principle running through all these cases like the main pattern in a piece of weaving. Was it an expense properly chargeable against trading results? The case came first before Mr. Justice Channell, 1909, W.N. 54, 1909, 1 K.B. 711, who held that the company were NOT entitled to the deduction of these payments as against trading results. The company appealed against that decision, and the Court of Appeal, consisting of the Master of the Rolls, Cozens-Hardy,

Lord Justice Farwell and Lord Justice Kennedy, allowed the appeal on the ground that on the facts of the case, as found by the commissioners for the general purposes of the Income-tax Acts, the sum which the company were compelled to pay for the compensation charge on these licensed houses was a payment necessary to enable them to earn profits as a brewery company, and was rightly deductible from those profits with a view to ascertaining the balance on which income-tax under Schedule D had to be paid.

This important and far-reaching case was Smith *v.* Lion Brewery Co., C.A., 1909, W.N. 177, and will no doubt be read with interest by all whom it affects.

D.

In the case of a company registered as limited a claim for exemption was set up on the ground that the trading profit was below £160. It was held that the rebate of £160 applied to PERSONS ONLY and not to LIMITED COMPANIES, and the company had to pay the tax on result shown in their trading account (Mylam *v.* Market Harborough Advertising Co. : Philimore, J., 1905, 1 K.B. 708).

E.

Deduction of the Tax Paid before Declaring Dividend.

By the special act of a gas company it was provided that profits to be divided amongst the shareholders of a company should not exceed a given rate. Before arriving

at that rate of dividend the gas company had deducted the income-tax paid upon the whole amount.

It was held by the Court of Appeal that in arriving at the rate of dividend the profits ought to be calculated as inclusive and not exclusive of the amount payable for the year in respect of income-tax (Att.-Gen. *v.* Ashton Gas Co., C.A., 1904, 2 Ch. 261).

The gas company carried the matter to the House of Lords, and their judgment affirmed the decision of the Court of Appeal (Ashton Gas Co. *v.* Att.-Gen., H.L. (E), 1906, A.C. 10).

This case is so far important as it confirms the governing principle that the trading account, whether of a person, a firm, or a company must disclose the *whole* of the profit after charging all expenses allowed as trading expense.

F.

Important Case of Not Making a True Return.

In this case the respondent on appeal had been required under section 52 of the Income-tax Act, 1842, to deliver a true and correct statement of his gains and profits according to the provisions of Schedule D and had delivered an incorrect statement—not as the jury found, fraudulently, but through negligence in not making a true statement to the best of his knowledge and belief.

In spite of this finding of the jury the judgment of Lord Alverstone, C.J., was that "The penalty imposed by section 55 of the Act of 1842 (5 and 6 Vic., c. 35) for neglect to deliver a true and correct statement is not limited merely to a non-delivery of *any statement*, but is applicable also to the present case".

The defendant appealed and the Court of Appeal held, reversing the judgment of Lord Alverstone, that as "defendant had delivered a statement, though inaccurate, he was not liable to the penalty" (C.A., W.N. 47, 1909; 1 K.B. 694, 1909).

In view of the importance of the matter to the revenue, the Crown carried it to the higher court, with the result that this judgment of the Court of Appeal was reversed, and the original judgment of the Lord Chief Justice (making the section applicable to cases of inaccurate return) was restored (Att.-Gen. *v.* Till, W.N. 249, 1910, A.C. 50).

AGENT'S NOTE.—In this case when the defendant's mistake was discovered by the revenue authorities he offered to pay the difference on last return, but not the differences on former years, which he pleaded unsuccessfully were statute barred. It will be seen that the point raised by the defendant as to the application of the Statute of Limitations to the rights of the Crown was not actually in issue at the hearing before the House of Lords. The commissioners by their action simply ignored the question, and there appears to be no authoritative decision upon it, but the consensus of competent opinion ascertained is emphatically and clearly that the statute cannot operate against any claim of the Crown, but is in words, meaning, and intent applicable only to claims for debt against individuals. If this be so, and in the absence of any direct decision that appears a fair assumption, it means that the right of the commissioners to charge for arrears of the tax extends back to the date of the last payment of the tax, no matter how long the period is.

Two cases have already been dealt with in these pages

where in one the surveyor of taxes held the taxpayer was liable for ten years, and in the other the commissioners held the liability extended to twenty years. Both cases were settled by a six years' compromise, but a legal decision is most desirable, because of the question of equity involved, as before stated, seeing that although the Crown will not grant more than three years' repayment of excess, the liability for arrears is apparently illimitable.

Special Cases settled during the Year 1911.

Important case affecting Trustees, Executors, and their Solicitors with regard to Arrears of Taxes payable by the "cestui que trust," and usually arising from their clients' inadvertence, ignorance, or neglect.

In the chapter dealing with the right period for which arrears are chargeable (heading D, page 21), this question is treated, and the following case is in further illustration as one dealt with during the year 1910-11.

A large firm of Solicitors received for the first time Form 52B, which is a requisition to Trustees and Solicitors to make return of all funds administered by them which involve liability to income-tax. They wrote that their client, now a very old man, had for eighteen years made no return except one based on $3\frac{1}{2}$ per cent on a capital invested in mortgages, £3900, but the Solicitors, receiving this form, and going fully into his affairs, found that instead of £136 10s., the above interest, he should have paid on his whole income from all sources more like £1360 each year. The Solicitors were in a dilemma and wanted to know if it would not be better for them to make no return at all, and accept whatever assessment the authorities chose to make, rather than submit their

old client to the payment of these heavy arrears, and possible penalties for making untrue returns.

The reply sent to this question was necessarily long in explanation, but short, sharp, and decisive in the effect, which was this: "No. The venue is changed. You as Trustees are answerable to the Revenue and must reply to the requisition with the full facts, whatever the consequences to your old client may be, or yourselves incur penalties for not making a true return, and, besides this risk, damage to your professional honour and status as a firm of high repute, because in a case of such importance the Revenue authorities would carry matters to the extreme length of their powers, allege wilful evasion of your duty as Trustees, and the particulars would appear in the daily papers and legal journals as affecting you and not your client."

This answer aroused them immediately to a true sense of their position, and the agent in their reply was asked to advise exactly what they should do.

That advice was given as follows, and it was acted upon loyally with a satisfactory result as the sequel shows.

It was, briefly summarized, to put all the cards on the table—i.e. to state in their own return all the information shown in their client's records, forward the same to their Local Surveyor of Taxes, and then plead that their client was an ignorant man, that he was now very old and infirm, that his neglect to make true returns was merely an inadvertence, that he never sought their advice in making such returns as he did make, and that now they had pointed out the consequences of his neglect, he was willing on their advice to make full reparation.

Then the firm were further recommended to ask the

Surveyor for an appointment to personally discuss the matter, and in that discussion to point out the Commissioners' decision in a similar case quoted in this little book, D 51500 (1907), where twenty years' arrears were in question, and upon the Commissioners being satisfied there had not been *wilful misrepresentation* or *intentional evasion*, they agreed to compromise the matter on the basis of six years' arrears of income on which tax had not been paid, and waived the penalties on which they would have insisted in addition to ALL the arrears had the case been one of wrong declaration to the knowledge of the person declaring and with *intent* to "DO" the Revenue. The straightforward course recommended was implicitly followed, and as the result of a quiet discussion the Surveyor of Taxes accepted the decision quoted, and the matter was settled on that same basis.

Case of great importance to all Publicans whose Houses are in Mortgage to Brewers, and whose Trade has been decreasing the last two years, and Note on other Mortgage Interest.

The question involved is the amount of tax rightly chargeable on interest due to the brewers upon their mortgage.

The case selected, which has been dealt with during 1912, is that of a fully-licensed house in a London district where the trade profits declined from £1041 in 1908-9 to £823 in 1909-10, and to £446 in 1910-11.

The mortgage is £16,900 at 5 per cent = £845, and although the business has not earned the interest, the revenue insists on the assessment for the current year

1911-12 being on the amount of interest stated in the mortgage, £845.

The authorities relied on Section 163 of the original Act of 1842, which states the tax is upon the amount *payable*. It was contended that the revenue cannot charge the tenant on more than the amount brewers received. As a matter of fact, the interest actually paid in the three years was for 1908-9, £730; for 1909-10, £670; for 1910-11,£500.

The result of interviews and correspondence in the end was that the Revenue authorities were right in their contention that the amount *payable* under the mortgage deed was the amount chargeable to the tax, because the brewers had added to the principal debt the arrears of interest not paid by the tenant, and so had received their interest in the increased value of their mortgage ; but the tenant was not liable to pay the 14d. rate on more interest than the brewer's certificate showed had been paid during the year 1910-11, and the collector would have to get the balance of the tax from the brewers. So far so good, but the outcome of the matter was that the tenant, although legally right, found himself "between the devil and the deep sea," because the brewers were masters of the situation, and he could not afford to quarrel with them over the tax on interest which he had not paid, seeing he owed them so much more principal through the interest being in arrear. On the other hand the brewers could not realize their security on a declining business—so at last the practical conclusion was reached that the tax on the full interest is to be allowed in the accounts, and that the brewers should just jog along and get what interest they could out of the business, while the tenant must be content with a bare living.

NOTE.—The provision of the Act of 1842 as to tax on Mortgage interest "payable" applies to any other interest, as for instance Debentures, which sometimes do not pay the interest which is "payable" according to the bond, but in such cases the individual is more fortunate than the publican under the brewer's thumb, because he can declare his income only on what he has received.

X 2.

DETAILED EXPLANATION OF SCHEDULES A, B, C, D AND E.

The Income-tax Acts are enacted every year and generally are very short, the sole object being to enforce the collection of that proportion of payment in the pound which the Chancellor of the Exchequer has fixed as the amount of income-tax for the year. But certain of the Acts that have been passed many years ago and which fully provide all the necessary provisions that govern the collection and assert the principles of the assessment of the Acts, remain still in force, and these consist of three, viz.:—

(1) the 5 and 6 Vic., c. 35, known as the Income-tax Act, 1842;

(2) the 16 and 17 Vic., c. 34, the Income-tax Act, 1853; and

(3) 43 and 44 Vic., c. 19, the Taxes Management Act, 1880.

The first of these is the principal Act regulating the whole subject, but it applied originally only to Great Britain, excluding Ireland; the second extended the effect of the tax to Ireland, mainly embodying all the principal details of the earlier Act; and the third provided details of the general management of the collection of taxes, and the machinery for so doing.

It is unnecessary, and would be foreign to the purposes

of a short work like the present, to go into the constitution of the various officers authorized and empowered to act in the details of collection and management, or to discuss the practice at any length, but the principles of the Act must shortly be summarized, and they are these:—

By the first Act (1842), confirmed by the second (1853), and by that extended to Ireland, income-tax is to be collected upon five different classes of property, divided into five schedules called respectively A, B, C, D, E.

Under Schedule A a payment of so much in the £ is to be made in respect of the annual rental of all lands, tenements and hereditaments (or heritages as they are called in Scotland) in the United Kingdom, and this is assessed upon the owner of such property.

Under Schedule B the tax is charged of so much in the £ upon the occupier of lands, tenements and hereditaments in respect of the occupation thereof. This section charges with payment of the tax persons, as farmers, etc., who make their profits out of the fruits of the land they rent.

Under Schedule C the tax is charged upon all profits arising from interest, annuities and dividends, and shares of annuities payable to any person, body politic, company or society, whether corporate or not out of any public revenue.

Under Schedule D the tax is charged upon the annual profits or gains of any person residing in the United Kingdom from any kind of property whatever, whether situate in the United Kingdom or elsewhere, and upon the profits and gains accruing from any profession, trade, employment or vocation, whether the same shall be respectively carried on in the United Kingdom or elsewhere.

And upon profits and gains arising or accruing to any person whatever, whether a subject of the King or not, although not resident in the United Kingdom, from any property whatever in the United Kingdom, or from any profession, trade, employment or vocation exercised within the United Kingdom.

And in respect of all interest of money annuities and other annual profits and gains not charged by virtue of the other schedules.

And under Schedule E the tax is to be charged for or in respect of any public office or employment of profit, and upon every annuity, pension, or stipend payable by his Majesty or out of the public revenue of the United Kingdom except annuities charged under Schedule C.

Obviously the most important of these five schedules is the fourth, viz. Schedule D, and it is to this that the greatest number of the decisions of the courts relates.

These schedules, embracing as they do such a vast and diffuse area of taxable incomes, are further detailed by having the particular subject-matters upon which the legislature seeks to impose them divided into certain cases and rules under them which it is necessary shortly to mention.

Thus under Schedules A, B, C and E there are rules given for assessing the charges upon the respective properties dealt with. But as these are of very trifling general importance, it is scarcely necessary to enter into them in detail.

But with Schedule D it is different. This is so important and so universal that we must set forth shortly the particular cases and rules of the Act. And the scope of the Act is subdivided into six cases, the first embracing

duties to be charged in respect of any trade, manufacture, adventure, or concern in the nature of trade not contained in any other schedule of the Act. And under this case certain rules are set forth showing how to estimate these.

The second case deals with profession, employment or vocations, and the rules thereunder.

The third case applies to profits of an uncertain annual value, not charged in Schedule A, such as wines, etc.

The fourth case concerns itself with interest in respect of securities in Ireland, and in other parts of the King's dominions beyond the seas, and in foreign securities, except annuities, dividends and shares charged under Schedule C.

The fifth case relates to taxation in respect of possessions in Ireland, Australasia, or other of the King's dominions.

And the sixth case deals with any annual payments not falling under any of the foregoing.

It will be seen that Schedule D is very comprehensive and extremely particular in careful application of the tax to every conceivable source of income—even to the extent of sometimes overlapping apparently some of the other schedules relating to incomes more specifically relegated to them.

Under the rules given in each of these cases are the particulars necessary for making returns with the attendant allowances and abatements, which it is not necessary here to recapitulate, inasmuch as they have been more fully set forth in other portions of this work.

But we will now discuss the decisions which have been given by the courts upon the various details of the

schedules that have given rise to litigation, either by reason of a want of clearness or from the circumstance that the infinite variety of the complications of human life are such that it is always certain some set of facts will arise that have not been provided for by any summary, however exhaustive or ingenious.

X 3.

GENERAL APPENDIX OF SETTLED CASES.

Set of Cases under Schedule A.

Charges on Property.

Under Schedule A which charges income-tax on property it is to be noted that exception is made in respect of certain charities, and of any hospital, public school or almshouses, in respect of the public buildings occupied, and it has been held that a school is a public school if founded and carried on by a corporation (as the City of London) not for profit even though it is partly maintained by fees paid by the pupils for instruction (Blake *v.* Mayor of London, 18 Q.B.D. 437, 19 Q.B.D. 79). But a theological college has been held not to be a public school within the provisions of the Act (Inland Revenue *v.* General Trustees of the Free Church of Scotland, 1897, 24 R. 496).

An institution for the reception of insane people, however, though founded by charitable donations and managed by an honorary committee, but not endowed, and supported by payments for the patients is not exempt—the reason being that it is wholly self-supporting (Needham *v.* Bowers, 21 Q.B.D. 436; also St. Andrew's Hospital *v.* Shearsmith, 19 Q.B.D. 624).

And though under § 37 of the Income-tax (1858) a landowner is entitled to deduct money expended to protect his lands, as by building a wall to exclude the sea, etc., he

is not so entitled to the deduction in respect to the sea-wall or embankment if he erects it to *improve* his land, i.e. if the said wall or embankment is not necessary for its actual preservation or protection.

And on the rent of lands vested in trustees for charitable purposes income-tax is not payable, but only so far as the rents are applied to charitable purposes (Commissioners of Inland Revenue *v.* Pemsel, 22 Q.B.D. 296, affirm C.A., 1891, A.C. 531).

But the exemption of buildings under Section A was to be strictly limited to buildings whose use is within the exact words of the statutory definition; thus though buildings are exempt which are designed and applied to literary purposes, it was held that the buildings of the Royal College of Surgeons in Edinburgh were not exempt in respect that the college was not a literary or scientific institution, but an institution whose main objects were professional (Sulley *v.* R.C.S. Edin., 1892, 19 Rettie, 751). So in *re* R.C.S. Eng., it was also held that the only deduction to be allowed was in respect of such property as was so appropriated as to create a legal obligation to apply it to the promotion of the science of surgery and not any part that was in any way applicable to the practice of surgery professionally (C.A., 1899, 12 Q.B. 871).

The exemption of buildings the property of any literary institution has been held to include a free public library whether supported by rates or not (Manchester Corporation *v.* McAdam, H.L., 1898, A.C. 500, reversing C.A., 1895, 1 Q.B. 673). But the building of a free library which was extended to housing the books of a subscription library under a contract of having them for the public after twelve

months was not allowed exemption (Inland Revenue *v.* Dundee Magistrates, 1897, 24 R. 930).

Money expended in keeping graves in repair is not to be deducted in returning income-tax, and when a lump sum is paid for this purpose it has been held assessable under Schedule A, No. 3, Rule 10, of the Income-tax Act, 1842 (Paisley Cemetery Co. *v.* Inland Revenue, 1898, 25 Rettie, 1080).

Case under Schedule B.

Increasing the Tax on Agricultural Land when Let for Shooting, etc.

It is to be noted under Section B that the lessee of a farm of land for grazing, who as an occupier would be assessed under Schedule B when he also has a lease for shooting, is liable to be further assessed in respect of this (Rivell *v.* Scot, 1895, 2 Q.B. 772).

Cases under Schedule D.

We pass now to the decisions under Schedule D which are much more numerous and important, inasmuch as the range of taxation under this schedule is far more extensive, both as to the number of persons it affects and to the amount of tax it raises, than any of the other. And the main points of value are in respect of the deductions which are allowed to persons thereunder.

Concerning Depreciation Charged against Profits in respect of Buildings, Plant and Machinery.

A deduction is allowed (under the Income-tax Act, 1842, Case I., Rule 3) from *net profits for depreciation* of

buildings, fixed plant and machinery, but it is important that this must not be in effect an addition to capital. Where that is so the deduction is contrary to the case and rule and is not allowed (Forder *v.* Handyorde, Ex.D. 233). So in a case where a firm of brewers purchased the leases of public-houses and let them to tenants who were bound to take their beer, and the brewers in acquiring the public-houses had not only to pay fixed rents but also in some instances premiums for the leases, and claimed in consequence an allowance each year for a portion of the amount so paid as premiums, on the ground that such allowance represented a portion of their capital exhausted during the year in earning profits, it was held that they were not entitled to any allowance in respect of the premiums (Watney *v.* Musgrave, 5 Ex.D. 241).

Expenditure on Repairs to Premises and Depreciation in Value of Premises.

The provision authorizing a deduction in estimating the balance of profits and gains of a trade in respect of the expenditure on repairs of premises, applies only to premises occupied by the person assessed for the purpose of his trade, and consequently tied houses which largely increased a brewer's profits, and which the brewers had to repair, were held to be not entitled to any deduction in respect of the cost of such repairs (Brickwood & Co. *v.* Reynolds, C.A., 1890, Q.B. 95).

But a deduction in respect of premises used for the purpose of the business is not diminished by reason that the manager lives on the premises. Where a banking company carried on business with rooms for the manager, they were held entitled to deduct from the profits the

annual value of the whole bank premises, including the part occupied by the manager (Russell *v.* Town & Counties Bank, 13 A.C. 418).

In estimating depreciation in the value of premises the commissioners of income-tax are not bound to take an average of depreciation during the last three years, but may adopt as their estimate the amount of depreciation during the year immediately preceding that of assessment (Cunard Steam Ship Co. *v.* Coutson, 1899, 1 Q.B. 865).

Depreciation on Ship Machinery.

A claim for deduction for wear and tear of machinery or plant was made by the owners of a ship engaged in trade for depreciation in the value of their ship, caused by ships of a better construction being built. It is hardly surprising that this was disallowed, the claim seeming on the face of it an impudent one (Barnley Steam Ship Co. *v.* Aiken, 21 R. 965).

Payment by Brewers for Surrender of other Licences when Requiring new One Themselves not Allowed as Trading Expense.

No deduction was allowed to the brewers in respect of money outlaid to earn profits in the case where on applying for a new licence they were accustomed to pay certain annual sums to other licensees for the right to call for a surrender of their licences if the justices required it, and which expenditure they sought to deduct when unsuccessful in obtaining the new licence applied for as a necessary annual trade expense. It was held in this case that

the money so expended was employed as capital in the trade (Southwell *v.* Savile Brothers, 1901, 2 K.B. 349).

Deductions from Profits in Respect of Property Abroad.

As to the deduction to be made from profits and gains received in respect of property producing them situate abroad, the following authorities explain the construction put by the courts upon the text of the Acts. By Sec. 5 of 31 Vic., C. 28 (repealed except as to Sec. 5 by 38 and 39 Vic., C. 66), the provision made for assessing the income-tax on the interest and dividends payable in the United Kingdom arising out of a foreign company or concern is extended to all annuities, pensions or other annual sums payable out of the funds of any institution in India and entrusted to any person in the United Kingdom for payment to any person resident in the United Kingdom, and the words "entrusted to any person in the United Kingdom for *payment* to any person therein" are extended to persons whose right and title to the payment of such dividends is shown by the registration or entry of the name of such person in any books or list ordinarily kept in the United Kingdom. And by 48 and 49 Vic., C. 51, Sec. 26, the enactments to secure payment of income-tax upon dividends of foreign and colonial securities are to be read as applicable to persons entrusted with payment of dividends, and include (*a*) any banker, (*b*) any person who obtained payment of dividends for another elsewhere than in the United Kingdom, and (*c*) any dealer in coupons out of the United Kingdom. And a person entrusted with payment of dividends and causing income-

tax to be paid is entitled to a remuneration of not less than 3d. in the £ of the amount paid as may be fixed by the Treasury.

Where Office in London but Company's Business Abroad.

In the case of Gilbertson *v.* Ferguson, 5 Ex.D. 67, on appeal 7 Q.B.D. 562, a foreign company abroad had an agency in London and dividends were payable at the option of the shareholder abroad or by the London agency. In a particular year the London agency earned enough to pay all dividends demanded of them in that year without requiring any remittance from abroad. The London agency assessed the income-tax on profits made in the United Kingdom on a three years' average—and this was an amount actually less than that earned in the particular year. They further returned that no interest, dividends or other annual payments payable out of the funds of the company had been entrusted to them for payment in the United Kingdom, and they appealed against the assessment made on them upon dividends paid by them, but it was held that the London agency were entrusted with the payment of dividends in the United Kingdom within the meaning of the 1853 Act, Section 10, and that they were liable to be assessed on the full amount of dividend they so paid in the year, but that since the dividends were payable out of the general earnings of the company and the London agency had already been assessed to income-tax as to their earnings they ought not to be further assessed under Sec. 10 of the 1853 Act and pay in respect of that portion of the earnings out of the United Kingdom.

Where Agents of Foreign Companies in London are Considered Principals.

When the State Bank of Turkey had taken over a bank in London it was held that they were only liable to pay in profits actually made in London (Att.-Gen. *v.* Alexander, 10 Ex. 20). But a company having a registered office in England, though carrying on business abroad, was held to "reside" in the United Kingdom, and liable to assessment (Cesena Sulphur Co. *v.* Nicholson; Calcutta Jute Mills Co. *v.* Nicholson, 1 Ex.D. 428). Nevertheless where a private person resident in England, but partner in a firm in Australia, and the profits of which firm were wholly earned in Australia, no business was carried on in England, he was held only liable to pay income-tax on money received in England, and not on moneys credited to him in Australia (Colquhoun *v.* Brooks, 14 App. Cases, 493).

But where the head office of a company was in London and a portion of the profits were earned abroad but not remitted to London it was held that the company was not exempt from paying income-tax on such portion (1891, 1 Q.B. 383, London Bank of Mexico and South America *v.* Apthorpe, and C.A., 1891, 2 Q.B. 378). And the decision in this case was followed in San Paolo Railway Co. *v.* Carter, 1 Q.B. 580, affirmed in the House of Lords (England), 1896, A.C. 31, where it was decided that the assessment for income-tax falls under first case of Schedule D of Income Tax Act, 1842, and not under the fifth case, and duty is to be computed upon the full amount of profit and gains, and not upon actual sums received in the United Kingdom, where a company carries on trade partly within

and partly outside the United Kingdom. In this case the registered office was in England and it was managed by directors in England, and it purchased plant in England and the accounts were kept in London, though the whole revenue was earned in Brazil.

Somewhat in contrast with this, is the case of Bartholomay Brewery Company (Rochester, U.S.A.) *v.* Wyatt, 1893, 2 Q.B. 499, in which an English company held all the shares (except seven) in a foreign company carrying on business abroad. The foreign company remitted dividends to the shareholders resident in England of the English company, but retained those apportionable to shareholders in the country where they were earned. It was held that the profits arose from foreign possessions and were under the fifth case of the Income-tax Act, 1842, Schedule D; and that the money retained abroad was not liable to income-tax, but that received in England was so. And a like decision governed the case of Nobel Dynamite Trust Company *v.* Wyatt, 1893, 2 Q.B. 499. If, however, the company is resident abroad, but its profits are derived from trade in this country, the profits are rightly assessed to income-tax (Wingate & Co. *v.* Inland Revenue, 1897, 24 R. 939).

Where Foreign Merchants obtain Orders in England but Supply the Goods from Abroad.

As to evidence of carrying on a trade in the United Kingdom, it was held in Grainger & Son *v.* Gough, H.L. (E), 1898, A.C. 323, that a foreign merchant canvassing in the United Kingdom does not carry on a trade there so long as all contracts for sale and all deliveries of goods are made in a foreign country. This case reversed the

decision pronounced in Roeder's case, 1895, 1 Q.B. 71. But *del credere* agents of foreign principals are principals liable within Section 2, Schedule D, of the Income-tax Act, 1853 (Watson *v.* Sandie & Hull, 1898, 1 Q.B. 326).

Interest on Foreign Securities which is Paid Abroad.

Interest arising from foreign securities and paid abroad is not received in the United Kingdom, as mentioned in Income-tax Act, 1842, Section 100, Schedule D, fourth case, and is not chargeable with income-tax under that clause (Gresham Life Assurance Co. *v.* Bishop, H.L., 1902, A.C. 287, reversing the Court of Appeal, 1901, 1 K.B. 153).

A company registered abroad, but having its head office in London is "a person residing within the United Kingdom," within Section 2, Schedule D, of Income-tax Act, 1853 (Goerz & Co. *v.* Bell, 1904, 2 K.B. 138). And likewise a foreign corporation may be resident in this country for the purpose of taxation (De Beers Consoli. Mines *v.* Howe, C.A. (1903), 2 K.B. 612).

And an English company holding 98 per cent of the shares in a foreign company does not carry on the foreign company, and is not liable to income-tax under first case in Schedule D of Income-tax Act, 1842, upon the full amount of profits of the foreign company (Kodak Limited *v.* Clark, 1903, 1 K.B. 505).

Payment of Debenture Interest not Allowed to be Deducted from Profit Taxable.

An English company carrying on business in Alexandria was held to be properly assessed to income-tax in

respect to the whole of their profits without any deduction on account of the interest of the debenture bonds of the company paid to the holders of such bonds in Alexandria, there being nothing in Sections 102 and 159 of the Income-tax Act, 1842, to limit rule 2 in Section 100, which states that no deduction shall be made on account of any annuity or any other payment payable out of such profits or gains (Alexandria Water Co. *v.* Musgrave, 11 Q.B.D. 174).

Insurance Dividends Similarly Treated to above Case.

Where an insurance office receiving dividends from money invested in Australia mixed up a certain sum so received, and did not show that it was capital so sent home, they were held to have been properly charged with income-tax upon the sum sent home (Scottish Provident Insurance *v.* Allan, 1903, A.C. 129). Whence the result follows that duties charged under Schedule D, Case 4, respecting the interest on securities, in the colonies are to be computed upon the sums which are received in the United Kingdom in the year.

Disallowance as Expense of Money Set Aside by Company to Cover Depreciation of Buildings, Plant, etc., held to be Capital Expenditure.

Of the deductions allowed to be made off the amount returned as annual profit and gains the case of Forder *v.* Handiside (1 Ex.D. 233) is instructive. Here a company of ironfounders set apart as required by their articles of association a sum of money from net profits for depreciation of buildings, fixed plant, and machinery, and this

they claimed to deduct, but the court held that such a deduction was contrary to Case I., Rule 3, of the Income-tax Act, 1842, as the amount so set aside was in effect an addition to capital.

On the point of deductions in respect to life insurance, the 1853 Act, section 34, allows the amount paid to be deducted if insured as provided, and this allowance which originally was limited to certain offices was extended to all offices existing on 1 November, 1844. But it was held not to apply to an insurance with a *foreign* company even though that company was in existence on 1 November, 1844, and had an office in England (Colquhoun *v.* Hedder, 24 Q.B.D. 491; 25 Q.B.D. 129).

Disallowance of Deductions for Bonus Distribution by a Life Assurance Company and Similar Cases.

Where a life assurance company was in the habit of dividing amongst its customers a bonus out of gross profits and returning two-thirds to policy-holders, it was held that the two-thirds were annual profits or gains assessable to income. This was a decision of the House of Lords (Lord Bramwell dissentient) reversing the Court of Appeal (Lord *v.* London Assce. Corporation, 12 Q.B.D. 389; 14 Q.B.D. 239; 10 A.C. 438).

But interest arising from investments made by a life assurance company, income-tax on which has been deducted at its source and which exceeded the amount of profits of the company for the year of assessment, was allowed to go free of charge. On the other hand, interest accruing on investments from which there had been no deduction for income-tax was charged, the court holding

that these last-mentioned investments were liable to assessment (Clerical, etc., Life Assce. Co. *v.* Carter, 22 Q.B.D. 444).

But no part of the premium income under participating policies is liable to be assessed to income-tax as profits or gains (New York Life Insce. Co. *v.* Styles, 14 A.C.).

An insurance company paying annuities is held to pay them out of profits and gains and is chargeable with income-tax on the amounts so paid (Gresham Life Assoc. *v.* Styles, 24 Q.B.D. 500, 25 Q.B.D. 301).

Where the insurer lends the insured the amount to pay the premium upon the security of the life policy, the assured is not entitled to deduct the amount of premium from his profits and gains under Schedule D, for it is not "paid by him," within Section 54 of the Income-tax Act, 1853 (Hunter *v.* Rex, 1904, A.C. 161).

L.C.C. Case where they were Allowed to Deduct Dividends on Schedule D as Set Off against Tax Paid under Schedule A.

Under the heading of the duties of persons paying dividends to deduct the income-tax before making such payments to their shareholders, the case of London C.C. *v.* Att.-Gen., in the H.L., 1901, A.C. 28, is important. The London County Council is bound to account to the commissioners for income-tax deducted from dividends on their consolidated stock paid out of the consolidated loans fund only so far as the dividends are not paid out of their income which has already been charged with income-tax. Where dividends are paid partly out of rents of lands charged under Schedule A and partly out of interest on loans to local authorities charged with income-tax under

Schedule D, and partly out of moneys raised by rates, the county council is entitled to retain so much of the deduction for income-tax as is equal to the income-tax paid both under A and D. In this case the judgment of the Court of Appeal (1900, 1 Q.B.) was reversed by the House of Lords. The London County Council receives a large income from interest on loans and their own lands. They have borrowed large sums, and the interest on the capital stock so created, together with their lands, is in excess of that received by them and they have to meet it by rates. Hence they have no income taxable, and consequently may keep so much of what they deduct from their stockholders' dividends for themselves as is sufficient to recoup them the income-tax paid by them under Schedule A (Att.-Gen. *v.* L.C.C., C.A., 1905, 2 K.B. 375).

Where a Trustee Paid an Annuity Free of Income-tax and tried to Recover past Year's Payment, but found he was only Entitled to Deduct from Annuitant's Income in Future.

With respect to an annuity paid to a wife by order of the Divorce Court the tax must be paid by the annuitant, but if the trustee has paid the amount free from income-tax by inadvertence or ignorance, he is not permitted to deduct past payments but only those made in future (Warren *v.* Warren, 1895, W.N. 72).

Similar Case of Failure to Deduct Tax from Interest Paid on a Loan.

So also a debtor paying interest on money borrowed, if he fails to deduct it at the time, is not permitted to

deduct it afterwards (Galashiels Prov. Building Soc. *v.* Newlands).

Where Trustee under Deed of Assignment had to Pay Tax on the Part of the Debtor's Business showing Profit.

And a trustee under a deed of assignment for the benefit of creditors is liable to pay income-tax upon a portion of the debtor's estate which earned a profit which was separate from the general business, even though the whole business was run at a loss. In this case the portion of the business that produced a profit was a supply of steam power to lessees thereof, and it was not allowed to incorporate this with the rest of the trader's business which was not producing a profit at all (Armitage *v.* Moore, 1906, 2 Q.B. 363).

Brewers Advancing Money to Customers Allowed to Deduct for Bad Debts Arising in those Cases.

Where brewers who were also bankers lending money to customers, they were permitted to deduct bad debts, it being held that the money advanced to customers was used in the business, and not capital invested (Reid's Brewery Company *v.* Maule, 1891, 2 Q.B. 11).

Colliery Owners having Subscribed to a Fund of Indemnity against Strikes not Allowed to Charge this as Expense.

Under the classification of money expended for the purposes of trade the following cases are instructive.

Colliery owners who subscribed to a fund for indemnifying them against strikes were not entitled to deduct the surplus of payments over benefits received as money expended for the purposes of trade (Rhymney Col. Company *v.* Fowler, 1896, 2 Q.B. 19).

And in the case of a municipal corporation claiming to deduct expenses of lighting their town from profits made by the sale of surplus gas to private customers, as being money expended for the purposes of trade, it was held that these were no "trade" expenses until they began to supply private customers (Dillon *v.* Haverfordwest Corpn., 1891, 1 Q.B. 575).

So a religious society selling books and also carrying on a colportage distribution was not entitled to exemption for loss on the colportage, it being held that carrying on the business of booksellers earned trade profits and colportage was quite distinct and not in the nature of trade, and therefore not money lost for purposes of trade (Religious Tract and Book Society of Scotland *v.* Fraser, 1896, 23 R. 390).

So also trustees receiving trade profits made in India may not deduct the expenses of administration, as this was held not to be an expenditure for trade purposes (Aiken *v.* Trustees of Macdonald, 1894, 22 R. 88).

Where Bookmaker held Liable to Tax on Profits as he made a Business of it, so was his "Vocation" within Meaning of Act.

It should be added here that the word "vocation" has been very liberally treated, and seems to embrace any occupation that a man adopts for the purposes of making

money as a means of livelihood. Thus a professional bookmaker was held liable as carrying on that business as a practice, though of course money acquired by a solitary successful bet would not be so considered.

Set of Cases under Schedule E.

With regard to Schedule E, a few cases have been decided which it is important not to omit.

Grant from Diocesan Fund to a Beneficed Clergyman held to be Profit Liable to the Tax.

A grant to a beneficed clergyman with an income of less than £200 a year from a diocesan fund was held to come under the denomination of perquisites or profits accruing by virtue of his office and not a clerical charity. The judgment of the King's Bench Division (1901, 2 K.B. 761) was reversed by the Court of Appeal (Herbert *v.* M'Quade, 1902, 2 K.B. 631).

Increase of Salary to Provide a Benefit Fund held Liable to the Tax.

In Smith *v.* Stretton (1904, W.N. 90), which raised certain questions of fact under a scheme for treating increases of salary as part of a benefit fund, it was held that income-tax was rightly charged upon it (Channell, J.).

Similarly Sums set aside for Old Age or Death considered Part of Salary Received and therefore Chargeable to the Tax.

And in Hudson *v.* Gribble (C.A., 1903, 1 Ch. 517), where the contribution of officers to a fund set apart by

a corporation empowered by a local Act to establish such fund, which was to be paid out to the officers of or their representatives on old age or death, it was held that amounts deducted from their "salaries" did not come within the words "sums payable or chargeable on the same by virtue of an Act of Parliament when the same are really paid and *bona fide* by the party to be charged," and could not be deducted from the amounts of salaries for assessment to the income-tax.

A Contrary Case where Clerk to Guardians compelled to Contribute to Superannuation Fund, allowed to Deduct those Sums from Income.

But a clerk to Guardians compelled to submit to contribute under Section 12 of the Poor Law Officers' Superannuation Act, 1896, was entitled to deduct the amount so contributed from his assessment under Schedule E of the Income-tax Act, 1842.

Case where Commissioners of Inland Revenue certified Title to Repayment of Amount paid at Beginning of Year, but Special Commissioners would not allow it as the Application not made till after the End of the Year. (Important as illustrating the Superior Power of the Special Commissioners.)

On questions of practice the following few cases are illustrative. It was held in the case Reg. *v.* Commissioners for Special Purposes of Income-tax (21 Q.B.D. 313) that a *mandamus* lay to the King's Bench Division under the following circumstances. If within, or at the end of a year, any person finds that his profits

fall short of the computed sum, the Commissioners of Inland Revenue may amend the assessment and certify the amount overpaid to the commissioners for special purposes who shall issue an order for the repayment of such sum. A mining company made such application to the commissioners, who instituted an inquiry and gave their certificate, but the Commissioners for Special Purposes refused to issue the order for repayment on the ground that it was *ultra vires*, the company not having made their application within or at the end of the year, and it was held that the proper course to compel them to do so was by application to the King's Bench Division for a *mandamus*. So also in a case where an allowance which ought to be granted is refused *mandamus* lies to the commissioners, commanding them to grant the allowance and to give a certificate of the allowance with an order for payment (Commissioners for Special Purposes *v.* Pemsel, C.A., 22 Q.B.D. 296, affirmed by the House of Lords, 1891, A.C. 531).

With respect to allowances for wear and tear, it should be observed that the Commissioners of Income-tax are not bound to take an average of depreciation during the last three years, but may adopt as their estimate of depreciation the amount of depreciation during the year immediately preceding the assessment (Cunard Steam Ship Co. *v.* Coulson, 1899, 1 Q.B. 865).

(Where the depreciation of a fleet of steamships was allowed by the commissioners at $5\frac{1}{2}$ per cent, and the owners who claimed $9\frac{1}{2}$ per cent appealed, it was held that the commissioners were wrong in estimating the value of the deduction as if it had been put out at interest.)

SUPPLEMENT.

Case illustrating the Exercise by the Commissioners of their Power to Increase Assessment where no Accounts are rendered in Corroboration of Return, being also an instance of that Large Class of People who do not pay what they ought, which is referred to in the Preface.

TRADING ACCOUNT, JUNE, 1906–JUNE, 1907.

DR.				CR.			
To Stock, 30th June, 1906	£225	0	0	By Sales at the three shops of the concern	£8721	1	6
,, Purchases as per ledger accounts	5123	11	9	,, Discounts allowed on bought accounts	61	13	7
,, Petty cash expenditure and ready money purchases	458	1	0				
,, Wages	1359	16	0				
,, Trade expenses	150	13	6				
,, Rent, rates taxes, gas and water	204	2	6				
,, Bank charges	7	15	2				
,, Profit on trading for year	1488	15	2	,, Stock on hand 30th June, 1907	235	0	0
	£9017	15	1		£9017	15	1

This was a very flagrant case of systematic evasion. The accountant who was employed each year strongly urged upon the owner the rendering of accounts and a proper return so that the right amount of income-tax should be paid, and pointed out the penalties he would be

liable to when his default was discovered; but he persisted in taking the risk, and each year made a return of £600, although he was on the average of three years earning twice that amount *net*. Well, the next year, in giving effect to the increased vigilance which has been remarked upon, the commissioners assessed him at £800, as he had not rendered accounts. Last year they made it £1000, and each year he paid—still without rendering accounts; and there can be no doubt that in the end the man will be compelled to produce accounts and books. Then will come the day of reckoning in arrears and penalties and he will wish he had taken the advice frankly given.

Case of Exercise of the Arbitrary Power of Assessment showing that by reason of reverse circumstances to those in above Case, the Authorities proved to be wrong, and the Person charged obtained the Relief he was entitled to.

In this case also the person had drawn the attention of the Assessor by use of a motor-car. He was a young man brought up in his father's business. The father was a contractor who had failed, and the son was thrown on his own resources, which consisted of practical experience and a good head. He started on his own account without capital, but his judgment served him well in the selection of land sites, and he found backers in the shape of a first-class firm of solicitors who believed in him. For three years he was content to live on £3 a week, and worked like a young horse. One estate after another he built and disposed of at good prices, but still handicapped

by costs and interest on his loans, he was not making profit.

Now for those three years he paid no income-tax, but he regularly made returns showing his position, only he had not rendered accounts. During the third year, 1910-11, he found it necessary to have a motor-car to get about quickly, but he chose a simple unpretending business-like machine, and purchased it on the hire system. That, coupled with extensive advertising of his properties, formed appearances which led the authorities to infer that he ought to pay income-tax, and an arbitrary assessment was made on him of £2000.

Then the authorities got what they wanted, and the accounts for the three years were got out. These were very defective in regard to the value of the properties on hand, but all accounts of dealings with merchants and the bank had been scrupulously kept, and by dint of untiring patience a complete statement of three years' trading was obtained and corroborated the result by a balance sheet of assets and liabilities on 5th April, 1911. In these pages frequent reference is made to interest on capital not being allowed as an expense of trading, and that item had to be eliminated from trading account, but remained as a liability to future capital in balance sheet. Even after that elimination the accounts showed an average loss on the three years of £200 each year, instead of an income of £2000, on which, in the absence of accounts, the assessment was fixed. The Surveyor who had the case under appeal was doubtful of the value of the properties on hand, and the agent's answer was that he had taken them at cost both at commencement and finish, so

the Revenue had no cause of complaint, and when these houses were sold profit would begin to accrue, and then tax would be paid.

This case was really settled on appeal before the Board of Commissioners, who heard with great patience the details of the three years' accounts showing what the basis of average should be, and then the chairman made these very common-sense remarks to the accountant who was expounding the figures: "We are satisfied your accounts are right, but why couldn't the man have called you in before instead of after the event, and saved us and the surveyor and you the trouble of this unnecessary appeal? The surveyor was quite within his right in assessing at £2000 where a man obstinately neglects to render accounts when called on, as in this case, to show how he arrived at amount stated in Return." In the end, on the accountant's suggestion, assessment was made on the £3 a week actually drawn as wages.

In the Matter of Domicile in Great Britain.

In a former chapter of this work (p. 89) the question of income-tax from foreign investments is dealt with for the purpose of showing that dividends received from that source and remitted to England, whether to the principal or his agent, or through his bankers, must pay the tax.

On a question of domicile the reverse process was in operation as the income was sent from England to a British subject who was employed abroad in a foreign country for the greater part of the year 1911-12, in

respect of which the authorities claimed payment of the tax because his employers in London had returned him in the routine course upon their statement of persons in their service and amount paid in salary and commission, or other emolument. The salary in this case was £200, and his expenses of living abroad were allowed up to £4 per week. During his absence he was assessed on £400, less abatement £160. Seeing he was engaged on telegraph work in Dutch Borneo the greater part of the year, including voyage out and home on Dutch ships, it was contended that if liable to the tax at all it could only be on £40, but as he had no domicile in England during the year he was clearly exempt altogether. That was the question submitted to a high authority. The answer was "No!"—domicile does not enter into the matter. The place of employment was London, the salary and expenses were remitted from London, and the amount received was liable on the salary only at 9d. less £160 abatement. Another aspect of this very interesting question was revealed in the curious recorded case (Bell *v.* Brown) where a wealthy American lived on a yacht moored out at sea. His dividends from the other side were remitted to England, and paid through his London bankers without deducting income-tax. In some way peculiar to surveyors the local surveyor became aware of this, and served him with an assessment notice for a very large amount. He resisted and appealed in vain, the Court deciding that the contention of the Crown was right; and as his yacht was moored within the recognized territorial limit of three miles from the shore, he was domiciled in Great Britain, where the income was received, and he had to pay the tax and costs.

A Case of a Solicitor in Doubt as to Liability to Super-tax.

This tax was not touched on before in this work because its main object has been to instruct those who count their income by the hundred instead of by the thousand, but a curious case arose during the current year, 1912-13, which may be of interest to the reader, and is therefore inserted.

A country solicitor derived his income from a variety of sources. He was a landlord of weekly property, a mortgagee of all sorts of property, he received interest on stocks and shares, and he earned a rattling good income from his practice as a solicitor. The question was as to whether he was liable to super-tax.

The income from rents was, *gross*, £179, *less* $\frac{1}{6}$ for repairs for assessable value =	£150	0	0
The income from mortgage interest was - -	644	0	0
The interest from stocks and shares was - -	100	0	0
The income from business on the average of three years to 5th April, 1912, was - -	1200	0	0
	£2094	0	0

The accounts were very complicated and involved many questions as to rents and mortgage interest being in arrear, and he wanted the matter made clear as he could not quite understand how to present his case without expert assistance; but when the whole of his figures had been audited and classified the above was the net result, and as he had a life policy bearing a premium of £150, he found to his great satisfaction the assessable amount of income from all sources was only £1944, and he was not liable to the super-tax as he had been afraid he was, and cheerfully paid the expert's charges for making the matter clear.

This case shows that it is often worth while to employ an experienced accountant, and so secure a clear arrangement of the figures showing the real income on which return to the tax is made.

Note.—The rates of the *super*-tax are as follows :—

1s. on the *earned* income from £2000 to £3000. (Sec. 67, Act 1910.)

1s. 2d. on the income from all sources from £3000 to £5000. (Sec. 66, Act 1910.)

1s. 8d. on the income from all sources as *from* £3000 when income is over £5000. (Sec. 66, Act 1910.)

Case of an Architect and Surveyor—Overpaid Tax Recovered for One Year on Average of Three Years by Appeal to Special Commissioners.

Professional men whether architects and surveyors, doctors or dentists, and even solicitors, are often much puzzled about the income-tax provisions as applied to their particular circumstances. In this case for three years the business part of the income had been gradually dwindling down and as a matter of fact he was not liable to pay the tax under Schedule D at all, but had paid it in ignorance till the year 1911-12 when the assessment was made as before to pay £12 on earned income. Knowing that he had done next to no business professionally for that year he sought expert advice and assistance, and was sorry in the result that he had not done so before, but he was barred from recovering on the two preceding whole years—by the operation of £160 abatement on the income —because he had not appealed each year. Correspondence with the District Surveyor showed settlement of the matter with him was quite impracticable, and an

appeal was lodged with the special commissioners, who very considerately agreed to the suggestion that as he was an old man and very infirm, instead of bringing him to London to meet them, they would hear the appeal in the country town where he practised. In the meanwhile three years' accounts of income from all sources were prepared and sent with vouchers to them and the appeal came on when they were next in that district.

According to the Returns sent in each year the income on which tax had been deducted at source and paid to the Revenue was from investments and property - £157
but he was further assessed under Schedule D on
trading - - - - - - - 270
making income all sources - - - - £427
so the fight was really on the charge of £270 @ 9d. = about £12, as to which he had returned "None," so—again in the absence of accounts—he was assessed for what he had *not* earned.

In support of appeal accounts were produced. These showed the following results :—

Receipts for professional work, 1909-10 - - - -				£192	0	0
Receipts for professional work, 1910-11 - - - -				110	0	0
Receipts for professional work, 1911-12 - - - -				43	0	0
being a gross total of				£345	0	0
Expenses, Rent, Wages, etc., 1909-10 - - - -	£140	0	0			
Expenses, Rent, Wages. etc., 1910-11 - - - -	120	0	0			
Expenses, Rent, Wages, etc., 1911-12 - - - -	110	0	0	370	0	0
Showing a loss on business done for the three years - - - - - - - -				25	0	0
of which the average for the one year in question was				£8	6	8

The special commissioners after a cursory inspection of the books and addressing some searching questions to the representative agent and accountant who was present, came to the conclusion that it was a genuine case and accepted his certificate of correctness quite frankly, but wanted to know what debts were on the books. To this the accountant replied: "Some debts amounting to £200 which were all for disputed charges and probably would never be paid without the expense of litigation which his principal would not incur; and even were any eventually paid they would be part of the receipts for the year in which they were settled," and upon that the special commissioners discharged the assessment under Schedule D, and that discharge bringing the income from all sources on the average below £160 he was not only relieved of the claim of £12 under Schedule D, but got back the amount of tax paid during the year 1911-12 in respect of investments and rents of property, £9 3s. 2d., £157 @ 14d., and willingly paid the agent's charge of a guinea per year for preparation of the accounts, and the out-pocket expenses of attendance on appeal.

Another Professional Case where a Doctor Retired from Practice was Entitled to be Repaid the Amount of Abatement for each of the Three Years, 1909-10, 1910-11, 1911-12.

In this case the income was from property, mortgages, and investments, and the tax was deducted at source. Thus the net income received was:—

From foreign investments as Egyptian, Japanese, Californian, and other Bonds -	£53	2	4
From home investments in Banks, Railways and Steamship Companies - - -	259	6	9
From rents of properties - - - -	115	4	10
,, mortgage interest - - - -	138	5	0
1909-10 and 1910-11 Total	£565	18	11

1911-12 was increased to £624.

There was no income earned whatever, so although he had made no previous claim to the abatement of £120 allowable on incomes under £600 from all sources, he was entitled to recover the whole three years' abatement.

Three separate claims were made for each year on Form 40A, and the above figures with very little variation were below the £600, which entitled him to the repayment of 1s. 2d. in the £ on £120 each year.

In such cases the Revenue authorities insist on vouchers for each taxed item as per instructions E and F on page 2 of the claim form, and it is therefore most important for people to retain their duplicate of remittance advices. In this case all were forthcoming except one or two insignificant items, but in regard to the interest on mortgages there had to be obtained a declaration (Form 185) from each mortgagor for each year that the tax had been deducted before remitting the interest, and had been duly paid to the proper officer for receipt of the tax.

These formalities being concluded the Surveyor ascertained that the tax had been paid, and the claimant was entitled to the repayment of three years' abatement at 1s. 2d. In this case however the average applicable to Trading accounts was not allowed and each year stood on its own end, so he got back abatement first two years @ £120 and the third year @ £70 at the 1s. 2d. rate = £18 1s. 8d.

On the Question of Bonus given as Reward in the Legal Profession being Liable to Income Tax.

The employers in the case were a large firm of solicitors in London with a big agency business for the country. They had kept the same staff for many years in the good old fashion. Every year they gave bonuses at Christmas to their clerks according to merit; but until last year they had not been asked to fill up the form showing not only salary of clerks but any other emolument. The bonus was clearly an additional emolument, and they so returned it in the form. The result was that the clerks were all assessed at so much more than THEY had returned as their salaries. Well one of them appealed last year, and from the circumstances of his case the bonus was exempted, but the authorities intimated that as a general principle all bonuses given as a reward for service are extra salary for that year, and therefore income.

The other clerks intend appealing this year collectively in a test case. Their contention is that the bonus is a gift and no part of their contract of service, because it may not be given again, and it certainly depends on the goodwill of the employer.

A discussion with the Surveyor in the case showed his view clearly was that although a gift or present from a father to a son, or any charitable gift, is exempt from taxation to the recipient, a gift or bonus from an employer as a voluntary reward for good work done by a clerk this year was in the nature of an encouragement to work as well next year, and as it had been regularly received for years past the inference was that it would be con-

tinued for years to come, and so long as it *was* received it was part of the income and therefore taxable. He said, further, there may be exceptional circumstances, and, as an instance, mentioned a case where the bonus was given to a clerk who had been away ill, and on returning the employer gave him a cheque to pay his own expenses and the doctor's bill, but where it was given as a reward for service it was additional salary.

Now this custom of giving bonuses is so general in the profession of the law that the question of liability to the tax is most important to all engaged in the offices of solicitors, and, therefore, very particular inquiries were made into the facts of this case, and it was ascertained that the practice of the firm was to have their accounts prepared to the end of March for the return of their own profit, and about a month after to pay such bonuses as in their judgment the profit so declared would stand. Therefore the real "crux" of the matter is that their own profit was charged with income-tax payable by them in due course, and if they chose to apply part of such profit in distribution as bonuses to clerks, the part of the clerks' income consisting of bonus could not be taxed again. In other words, if the employers pay 9d. on the whole profit the portion of it given to clerks could not be charged another 9d.

That is the real ground for the appeal to the commissioners.

On the Importance of the 30th September.

This is really the crucial date in connexion with the tax, for the assessments are founded upon the Surveyor's Reports made up to that date.

It is not generally known to the public that up to the 30th September an amended Return may be substituted for that sent earlier in the year. This provision is contained in the Act of 1907, and still obtains. Under our financial system the Chancellor of Exchequer has to make his Budget of Income and Expenditure before the event, i.e. it is based on estimate of probabilities. The taxpayer's contribution to that estimate is a return of his income for the coming year based on the ascertained amount for the current year up to 5th April, or, in case of traders, on the average of three years to that date, and that Return is necessarily required by the Chancellor each year to compile his Budget. The privilege of making a corrected Return by 30th September was a sensible concession to the taxpayer, as an example will show.

In several trades for the current year the traders have been hard hit by the effects of the disastrous strike during the six months, March to August. Butchers and provision dealers have suffered much, dairymen in lesser degree, but the building and allied trades to a much greater degree, so seriously indeed that in the one instance given a contractor who was assessed on income of £1600 last October for 1911-12 had actually lost £200 in the six months, March to August, through the holding up of material supplies. That contractor was under this provision entitled to set off the loss on the last six months against the profit on the first six months, and as advised sent in an amended Return by the 30th September, so that *his* liability to the tax on the year 1912-13 will be reduced to a minimum. Claims to be charged at 9d. rate on earned income must also be lodged by 30th September. There are two considerations as to this worth attention.

First, there is an obscure clause at the foot of page 3 of the big yellow form called the Return, which is the claim for relief on earned income and any other relief the person is entitled to, such as allowance on insurance and on children. Very often, although the rest of the form is filled up properly, this claim is overlooked and not signed, so the taxpayer is charged at the 14d. rate on "earned" part of his income.

If any are in doubt whether they have signed that or not let them go to the Surveyor and ask for a separate Form 38H, and lodge the claim before the 30th September. Repetition will not matter. Certainty is the thing.

Next, people will and do often think that accounts are not necessary, but the fact is that unless accounts are rendered in support of the Return they render themselves liable to any assessment the Surveyor likes to fix, and the only remedy is appeal. That involves production of accounts properly vouched, so in this way the authorities get what they want. There are many illustrations of this in the preceding pages, but perhaps this short summary will be useful in calling the attention of those who pay more than they need to the fact that a little care at first saves a lot of trouble at last. Another phase of this matter is that the authorities are every year increasing their vigilance to detect evasions, so much so that many people have received a demand for the Return for the first time during the last two or three years. It has been a common idea that if they don't receive a notice they are not liable to the tax, but that idea is quite an illusion, because under the Income Tax Acts the legal notices are those affixed to the *Church door*. The forms sent out by

the Assessors are for purposes of facilitation. If they were not sent out at all the citizen is notified of his liability by the annual notice at the *Church door*. It is there he goes for information as to rates, or as to parliamentary vote, and as to any other matter, parochial or imperial, involving his duty to do or pay something—in a word, it is there he sees the actual link between the Church and the State. Therefore if a man has not received the form it is, in law, his duty to go to the Surveyor and get one.

Case of Evasion of Liability to the Tax systematically continued which was Punished by the Loss of £1000 *and the Sacrifice of a Good Business.*

This occurred some years ago, and is introduced as showing how cunning based on fraud may bring about its own defeat. It is a well-authenticated case, and is remembered by persons living in the Stratford district of London where it happened.

A baker doing a very good trade in small premises, secured at a low rent on long lease, made returns to the tax every year, which were wilfully false, for the purpose of escaping payment. At that time the authorities were not so insistent on the production of accounts to corroborate the return as they are now, and for some years the man successfully evaded his proper liability. Then one day he received "notice to treat" from the London County Council (who required the premises) in common with many of his neighbours. They were all dealt with fairly and the compensation arranged to the satisfaction

of both sides, but he was greedy and wanted £3000. The offer of the London County Council was £1000; so a deadlock ensued, followed by proceedings to show that he was entitled to ask £3000 on the profits of his business. In the course of the inquiry information came somehow to the Council's representatives that it was not a straight case, and the man was suddenly asked by counsel what he had paid on income-tax. He could produce no receipts, and in the result agreed to take the £1000. Then came the Nemesis. The case began to be talked about and finally reached the ears of the Local Surveyor of Taxes, who commenced operations by informing him that on his own showing he had made such profit as justified his demand of £3000 compensation—that he had wilfully defrauded the Revenue and was liable for the full penalty in each case. When he found on seeking advice he would certainly have to pay the whole of the penalties and thrice the tax he meant to defraud the Revenue of for years past, he disappeared, has never been seen or heard of since; and, when the lawyers had finished with the matter, and the Revenue authorities had got their claim settled, the £1000 awarded had gone, and his business into the bargain!

Case of Adjustment with Surveyor of an Excessive Assessment in the Absence of Accounts where Notice of Appeal not given within Ten Days.

Where assessment has been made and not appealed against in time the matter may be adjusted by the Sur-

veyor if he is satisfied the neglect to appeal was owing to some exceptional cause. In this case the cause was typhoid fever, and the Surveyor agreed that was a very exceptional circumstance. The arbitrary power to assess at any amount when accounts are not rendered has often been mentioned in these pages, and the attention of readers is particularly called to the case now dealt with to emphasize the importance of the matter in these *final* observations.

The man was a pawnbroker and did a fairly good business, showing net average of £600 on the three years 1909-10, 1910-11, 1911-12, as shown in his Return early in the year, but because he had not rendered accounts in corroboration of the Return he was assessed at £1000 in October. Meanwhile he had been prostrate with typhoid fever, and on his recovery was informed of the assessment, and sought advice, which was to have his accounts made out and sent in with explanation of his illness. That was done, and the accounts fully bearing out the Return made were laid before the Surveyor, who found they were correct and agreed to amend the assessment. The only question was as to some property purchased by his wife out of a legacy left her in March, and the aid of a large sum on mortgage. This had not been stated in the Return, it being thought *that* would do next year, as nothing much had come in, because the property had been bought a bargain and needed considerable repairs. The Surveyor, however, insisted on the fact being disclosed in the return of income from all sources, of which the wife's portion was from this property.

When this was done it was found the property consisted of twenty houses bringing in a

gross rental of - - - - -	£540 per annum.
This was less one-sixth for repairs -	90
Leaving - - - - -	£450
But there were empties during the period of repairs, which were allowed and amounted to - - - - -	50
So the gross sum of income was -	£400
This was subject to ground rent at £4 per house - - - - - -	80
Leaving subject to *interest* -	£320
The mortgage required to complete the purchase was borrowed at 5% on the amount, £3000 - - - - -	150
Leaving finally chargeable -	£170

This justified the Surveyor's insistence of the property being included in the 1912-13 assessment, so the man did not get the abatement on his own income of under £700 as he expected, but, as he admitted, the service rendered was useful to this extent that the assessment of £1000 which he had not appealed against was reduced by the adjustment effected to £600, plus wife's income £170; and, further, as he had not signed the claim for relief at foot of page 3 on the Return, he had got his £600 taxed at 9d., as a part of the whole arrangement made, instead of 1s. 2d., so he had really saved 400 one-and-twopences = £23 6s., and he willingly paid the odd £3 6s. fee charged, and was a net gainer by £20,

The point of this case is what has been repeatedly urged upon readers of these pages—that one can usually get the matter in question arranged by going frankly to the Surveyor, either personally or through agent—the latter being preferable because of his special experience—with a full statement of all the facts, *before appealing*.

The appeal is really only a necessity when there is some radical difference of principle at issue. Several examples are given in the book, where allowances made by one Surveyor during his three years in the district are refused by his successor. One only need be referred to, which, although a small matter, shows clearly the principle allowed by the predecessor and challenged by the Surveyor then in charge, viz. the waterworks case (p. 82), where the depreciation of plant had been allowed as a trading expense in former years, and disallowed in 1911. Even in that case a compromise was effected in the end with the objecting Surveyor, and so the expense and trouble of appeal was avoided.

In concluding this chapter it is desirable to point out that there are other causes than illness which result in the neglect to appeal within the statutory ten days of receiving notice of assessment. Absence on a journey, a long holiday for rest from work for health's sake, a change of place of business, a fire upsetting business, alteration of premises,—in short, anything which may naturally lead to inadvertence in respect of the assessment made, will be sufficient ground for going to the Surveyor *before the end of October*, and generally adjustment will follow.

Finally, it must be clearly understood that once the assessment is in the hands of the collector the amount must be paid, and any relief sought can only *be* obtained

by readjustment of the next assessment; *or* it may be *either* by repayment of excess, *or* reduction of amount assessed for the current year according to whether the applicant is entitled under the Act of 1907 to be repaid the difference in cash or whether he is simply entitled to adjustment in the next assessment on the basis of average of three years' trading proved by accounts. As stated already and now repeated for the sake of emphasis, the Surveyor of Taxes will usually review up to the end of the year an assessment made in October, but after the amount is collectable, viz. January 1, the matter must stand over till next assessment, and no appeal against the Surveyor's decision is allowed.

As an example the case of the architect quoted above will suffice. The assessment was made in October, 1911. The accounts were prepared and the appeal to the Special Commissioners against the Surveyor's decision was lodged on November 30th, but the appeal was not heard till March 27th, 1912, when the architect got the only relief he was entitled to, viz. one year's property tax and discharge of liability under Schedule D, on the ground that his average income for the past three years was under £160, and so long as it is so he can each year obtain repayment of the property tax deducted at source and paid to the Revenue.

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